



Bonn International Center for Conversion

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# Harmonized EU Arms Exports Policies in Times of Austerity? Adherence to the Criteria of the EU Common Position on Arms Exports

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# Executive Summary

The study analyzes the current trends on the international arms market and the role EU Member States play as well as the adherence to the Criteria of the EU Common Position. It also takes a closer look at the effects of austerity measures on the European defense industry and the shift towards non-European markets. While EU Member States trying to overcome the financial and economic crisis, which has effects on the defense budgets, countries in the Middle East and Asia are continuing to modernize their military forces. EU Member States play a vital role in supplying military equipment to a number of countries. European defense companies are confronted with a situation in which the global arms market has increasingly become a buyers' market with states being able to acquire weapons from all around the world. Arms producers are faced with these demands by the recipient country which, as a consequence, leads to much more than just the transfer of military goods and weapons, but also to the provision of services and training and even the support in establishing own production capacities in the recipient countries.

Against the background of a changing environment after the end of cold war, EU Member States agreed on the introduction of the EU Code of Conduct and later the EU Common Position on Arms Exports to harmonize their arms exports. The objective of high common standards for arms exports has led to a better harmonization among EU Member States. EU Member States apply the Criteria of the EU Common Position differently over time and use a number of Criteria, for example, Criteria two and seven, more often than others. Yet, there continue to be differences in the implementation as well as the interpretation of the Criteria of the EU Common Position. Case studies of Saudi Arabia, Russia and North African states highlight the difficulties of coherent and harmonized arms exports. This challenge is even complicated by the pressure EU defense companies face due to austerity measures. Defense firms demand more political support from their governments to be competitive on new markets outside the EU, although the EU remains the most important market for most of the companies.

Despite some efforts in the last fifteen years, there continue to be some problems to achieve high common standards for arms exports. The level of reporting and transparency needs to be improved and national parliaments need to ensure a timely publication of arms exports data. Consideration should be given to introduce a consultation mechanism for post-embargo countries as well as countries of concern. A better review of the interpretation and application of the Criteria of the EU Common Position would improve the level of harmonization among EU Member States. The role of the European and national parliaments need to be strengthened and the European parliament could act as a facilitator to stimulate the discussion among national parliaments.

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## 1 The way towards an EU Common Position on Arms Exports

For a long time, European states have pushed for a better harmonization of arms export control regulations and initiated first steps on the European Union (EU) level at the European Councils meetings in Luxembourg and Lisbon in 1991 and 1992, respectively. The political momentum in the early 1990s led to the adoption of the EU Code of Conduct, which was triggered by the controversial role European states played in supplying weapons to the Middle East in the 1980s and, especially, in arming Iraq in the run-up to the 1991 Gulf War.<sup>1</sup>

Two decades ago, efforts to harmonize EU Member States' arms export policies were driven by three main factors: First, consolidation and the Europeanization of the defense industry from the early 1990s on put pressure on European governments to agree on more coherent and coordinated arms export policies (Bauer, 2003: 130). Second, an increased interest in conflict prevention at the end of the Cold War led to calls for a more ethically orientated foreign policy (Bromley, 2012: 3). EU Member States soon realized that their declared objectives of fostering human rights and promoting peaceful resolutions of conflicts were impaired by arms exports. This was also driven by the conflicts that unfolded in south-eastern Europe in the 1990s. Third, arms export scandals and the instance that during the Gulf War EU Member States saw themselves confronted with the fact that EU-produced weapons might be used against the armed forces of a Member State or allies ("boomerang effect"), increased the pressure for developing stricter arms export control mechanisms (Bromley, 2008a: 11; Holm, 2006: 213).

In this context, the Council of the EU established the Working Group on Conventional Arms Exports (COARM) in 1991 to assess the then level of harmonization of arms export policies and to develop suggestions on how to align national practices. Shortly after that, in 1991/92, the Council of the EU adopted eight Criteria, which the EU Member States agreed to take into account in their decision-making process when granting export licenses for military equipment. A few years later, in June 1998, EU Member States agreed on the EU Code of Conduct on Arms Exports, with which they intended to set "high common standards which should be regarded as the minimum for the management of, and restraint in, conventional arms trans-

fers" and to "reinforce cooperation and to promote convergence in the field of arms exports" (EU Code of Conduct, 1998) within the framework of the Common Foreign and Security Policy (CFSP) and by that formalized the eight Criteria, which were previously developed. Even though the provisions of the EU Code of Conduct are a Council declaration and not legally binding, they do reflect the political commitment of EU Member States to agree upon a set of common guidelines when approving or denying the export of military equipment from EU territory, specifying all together eight Criteria on which such decisions ought to be based. Since the adoption of the EU Code of Conduct, 27 EU Member States have subscribed to its provisions (Bromley 2012: 3f.). In its framework, they agreed on the introduction of a number of mechanisms and instruments to increase the level of harmonization and ensure a more consistent interpretation of the Criteria. The introduction of operative provisions under the EU Code of Conduct laid the foundation for a common effort to increase the level of coordination in a field that is considered part of their national sovereignty. However, national prerogatives prevented better coordination and harmonization of arms exports from the beginning and difficulties continue until today, as EU Member States pursue divergent interests concerning their specific arms export policy. Article 346 of the Lisbon Treaty manifests the national control over defense production and any kind of arms exports. Still, the operative provisions of the EU Code of Conduct provided a framework with the help of which the level of harmonization could be improved. They included EU-wide information exchange and consultation mechanisms, which would ensure a more consistent interpretation of the Criteria. These Criteria contain information on reasons why export licenses were denied, provide a system of consultation among Member States when considering an export license for an "essentially identical transaction" that had previously been denied by another Member State and, as laid out in Operative Provision 8 of the EU Code of Conduct, they foresee that EU Member States, as agreed, submit an annual report on arms exports including data on issued licenses and the volume of actual exports by each Member State (Poitevin, 2011: 48).

In December 2008, the EU Member States finally agreed to replace the EU Code of Conduct with the legally binding EU Common Position which defines common rules governing the control of exports of military technology and equipment (EU Common Position) and which binds the EU Member States to apply the eight Criteria, which were originally laid out in the Code of Conduct. Although the EU Common Position

<sup>1</sup> Other countries also played a controversial role in arming Iraq, which has led to discussions on the UN level. Yet, as UN member states have only agreed on the introduction of the UN Register of Conventional Arms, they are merely asked to report on their arms exports and imports.

is legally binding, no review mechanism is foreseen to assess implementation of the obligations, nor is there an independent body that observes the EU Member States' behavior. While some elements of the EU Common Position have made it into national law, decision-making and issuing licenses still remains fully in the hand of the individual EU Member States. EU Member States have also agreed on a user's guide to assist with the implementation of the EU Common Position and a more coherent interpretation of the Criteria.<sup>2</sup> The current review process of the EU Common Position, which started in December 2011, also assesses the user's guide focusing on Criteria seven and eight to enhance their applicability.

Since the adoption of the EU Code of Conduct on Arms Exports and its successor, the EU Common Position, there have been constant efforts to further harmonize Member States' arms export policies and to agree on high common standards. The EU Code of Conduct and the EU Common Position have raised high hopes among parliamentarians and civil society that the Criteria set out in these two documents would prevent the EU Member States from exporting arms to countries with a poor human rights situation, or to conflict-prone regions. Besides modifications of the Criteria, especially a specification of the wording and incorporation of additional language (Bromley, 2012: 5), the substance of the EU Common Position, as to what states are committed to, remains the same as it was under the EU Code of Conduct. Even though Member States, in their sovereignty, can decide on how to implement their obligations, they have to apply the Criteria when issuing an export license. The EU Common Position also obliges Member States to produce a national report on arms exports and defines that they are to take part in the consultation and information exchange mechanisms.

Despite the fact that the European arms export control system has seen some important changes over the past decade and provided the framework for better harmonization, numerous issues remain that need to be addressed in the future. Controversial exports of military goods in the past have raised questions about the true adherence of Member States to the Criteria of the EU Code of Conduct and the EU Common Position and the quality of harmonization in this field. As one study summarizes, "We find little evidence that the EU Code has improved harmonization among Member States' arms exports, the original goal of the EU Code" (Brzoska and Bromley, 2008: 23).<sup>3</sup>

<sup>2</sup> The most updated version of the EU user's guide can be found here: <<http://register.consilium.europa.eu/pdf/en/09/st09/st09241.en09.pdf>>.

<sup>3</sup> See also for a similar conclusion: Vranckx, 2010.

Despite the fact that the EU Parliament has only limited power in the field of arms exports, it has played a decisive role with regard to the development of the EU Code of Conduct and the EU Common Position as well as the introduction of the ICT-Directive (see below). The parliament's constant exchange and interaction with the Council in the early years provided a strong impetus for Member States to adopt changes based on recommendations by the European parliament (Bromley, 2008b: 10; Bauer, 2004a). However, the engagement of the European parliament has decreased over the past years.

#### **Criteria of the EU Code of Conduct on Arms Exports (1998) and the EU Common Position (2008/944/CFSP)**

##### **Criterion One**

Respect for the international obligations and commitments of Member States, in particular the sanctions adopted by the United Nations Security Council or the European Union, agreements on non-proliferation and other subjects, as well as other international obligations..

##### **Criterion Two**

The respect for human rights in the country of final destination as well as respect by that country of international humanitarian law.

##### **Criterion Three**

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

##### **Criterion Four**

Preservation of regional peace, security and stability.

##### **Criterion Five**

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

##### **Criterion Six**

Behaviour of the buyer country with regard to the international community, in particular its attitude to terrorism, the nature of its alliances and its respect for international law.

### Criterion Seven

Existence of a risk that the military technology or equipment will be diverted within the buyer country or re-exported under undesirable conditions.

### Criterion Eight

Compatibility of the arms exports of the military technology or equipment with the technical and economic capacity of the recipient country, taking into account the desirability that states should meet their legitimate security and defence needs with the least diversion of human and economic resources for armaments.

**Source:** Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, Official Journal of the European Union, L335, 8 December 2008.

### Introducing the Directive on Intra-Community Trade:

EU Member States finally agreed on the EU Common Position under French presidency in the second half of 2008. The overall process, however, not only contained the agreement on the EU Common Position but also created the basis for a "European Defence Package", which included the Directive on simplifying intra-Community transfers of military goods. In 2009, the EU Commission introduced the "Directive of the European Parliament and of the Council simplifying Terms and Conditions of Transfers of Defence-Related Products within the Community (ICT-Directive)", which needed to be implemented by all EU Member States by 30 June 2012. While the ICT-Directive aimed at liberalizing intra-community trade in military goods by introducing a new EU-wide licensing and certification system, the final control over licenses for exports of military equipment still remains within the full sovereignty of EU Member States. While the Directive was intended to break down trade barriers within the EU in order to promote joint production projects among European defense companies and to increase the competitiveness of the companies (Ingels, 2011), it is possible that "instead of strengthening control at the EU's outer borders, the ICT Directive seems likely to have a liberalizing effect on exports" in general (Depauw, 2011). In practice, the final control at the EU borders remains the main challenge since there is neither an EU-wide cooperation among the custom authorities nor an arms export documentation system. All of this is aggravated by the fact that in Germany, for example, the levies are subordinated to the Ministry of Finance

and not the Ministry of Economics and Technology, which is the licensing authority. Furthermore, EU Member States contemplated to apply the EU licensing system to exports to third countries or use other EU Member States to transfer military goods to non-EU countries (Depauw, 2011: 73). Yet, it remains to be seen if this will have a negative impact on the control of arms exports to third countries. As part of the general efforts to reduce the bureaucracy for the companies, some control and reports duties<sup>4</sup>, have been assigned to the defense firms (Moltmann, 2012). Yet, despite efforts by the EU Commission to transfer competences to the EU level, which was partly successful with the ICT-Directive, EU Member States' harmonization efforts in the framework of the Common Foreign and Security Policy (CFSP) illustrate that arms exports outside the EU are not part of the general common commercial policy.

The study will draw attention to mainly two questions: What are the developments regarding the global arms trade and the role European defense companies play in this in times of austerity measures? Did EU Member States adhere to the Criteria of the EU Common Position over the past years?

Furthermore, it provides a brief overview of the destinations of European arms exports over the past five years and analyzes current trends in arms exports by looking at changes on the global arms market and seller-buyer-relations. Section three explores the adherence of EU Member States to the eight Criteria of the EU Common Position over the last five years and draws attention to the level of harmonization of EU Member States' arms export policies. This section will also discuss how the eight Criteria were respected when assessing applications for export licenses to Russia, Saudi Arabia and countries from North Africa. Section four discusses the current status of the EU defense industry, the ongoing consolidation process and the effects of austerity measures taken by EU Member States on their arms exports. The final sections provide conclusions and recommendations, including ideas on how to improve the effectiveness of the EU Common Position, harmonize EU Member States' arms export policies and possibilities to strengthen the overview and control of the European parliament as well as national parliaments in the field of arms exports.

<sup>4</sup> The defense companies, for example, need to bi-annually report on their actual exports under global licenses. However, there is no common understanding among EU member states on how to verify such information.

## 2 Trends in international arms transfers: New supplier–recipient relations?

While a number of industrialized countries were fighting the global financial crisis, which caused a near economic breakdown and led to shrinking state budgets, the global arms trade has been increasing. Recently published data by the Stockholm International Peace Research Institute (SIPRI) indicates that the volume of international transfers of major conventional weapons increased in the period 2008 to 2012 by 17 percent compared to the period 2003 to 2007. The United States and Russia remain the major exporters in 2008 to 2012, accounting for 30 percent and 26 percent of all exports, respectively. Germany (eight percent) and France (six percent) are again among the five biggest suppliers of major conventional weapons, while the United Kingdom has dropped out of that ranking and is replaced by China (five percent) for the first time since the end of the Cold War (Holtom et al., 2013). According to SIPRI, the five biggest recipients in the period 2008 to 2012 are all from Asia, namely India (12 percent of all arms exports between 2008 and 2012), China (six percent), Pakistan (five percent), South Korea (five percent), and Singapore (four percent).

Although China, for the first time in more than two decades, has moved into the top five arms exporters, the long time major suppliers of weapons have generally established their position as exporters on the world market. At the same time, some aspects of the global arms trade have changed quite substantially, for example, the products traded, the technology transfer and the relation between supplier and recipient, which all are more and more dominated by the recipient since the latter can dictate the conditions of the arms deal to a certain extent due to more competition among defense firms. The global arms market has increasingly become a buyers' market with states being able to acquire weapons from all around the world. Arms producers are faced with these demands by the recipient country which, as a consequence, leads to much more than just the transfer of military goods and weapons, but also to the provision of services and training and even the support in establishing own production capacities in the recipient countries. Generally, these are often part of off-set deals and the increasing production capacities, resulting in new suppliers of military equipment, in the end stimulate competition on the international defense markets. Thus, competition among the suppliers continues, especially for the growing markets in the newly industrialized countries and regions outside North America and Europe (Wezeman, 2011: 194).

The ongoing financial crisis may pose a risk to the European defense industry as it has put the public budgets of EU Member States under severe pressure. Current austerity measures in EU Member States as well as in the United States will most likely see a reduced procurement of military equipment by the armed forces of these nations. Recent data on the TOP 100 defense companies reveal the impact austerity measures have in the Global North and the efforts of most companies to gain access to new markets in Latin America, the Middle East and Asia by establishing subsidiaries or acquiring companies in major importing countries (SIPRI, 2013). By the beginning of the 21st century, as Bitzinger wrote, "companies such as BAE systems (United Kingdom), Thales (France), Dassault (France) and Finmeccanica (Italy) were earning up to 75% of their revenues from foreign sales" (2010: 208f). European defense companies therefore demand political support from their governments to access new markets outside Europe and North America (Boemcken/ Moltmann, 2012). A recent survey of German defense companies indicates that the current trend, which sees European defense companies positioning themselves strongly on the international market and gaining more access to new markets, will continue over the coming years. While the European and North American market will remain most important for most of the companies, markets in South America (Brazil), the Middle East (Saudi Arabia and the Gulf States), North Africa (Algeria, Morocco, Egypt) and Asia (India, Vietnam, Indonesia, Japan, Australia) become increasingly important as countries in these regions step up their military spending (Horváth & Partners, 2012: 9f). A recent study by the US Congressional Research Service supports this view.

Developing nations continue to be the primary focus of foreign arms sales activity by weapons suppliers. During the years 2004-2011, the value of arms transfers agreements with developing nations compromised 68.8% of all such agreements worldwide. More recently, arms transfer agreements with developing nations constituted 79.2% of all such agreements globally from 2008-2011, and 83.9% of these agreements in 2011 (Grimmett, 2012).<sup>5</sup>

The study also concludes that arms deliveries to developing countries in 2011 amounting to around US \$28 billion had reached their peak since 2004 and constituted 63.3 percent of all deliveries worldwide. These are clear indications that the markets outside North America and Europe are becoming more important for the major weapons suppliers and—since the value of arms transfer agreements has increased—

<sup>5</sup> There remain some methodological problems with the term "developing nations" since this seems rather outdated.



**Table 1: Military spending of EU Member States, 2008 to 2012**  
(in US \$ million at constant (2011) prices)

	2007	2008	2009	2010	2011	2012
Austria	3 759	3 510	3 490	3 490	3 411	3 411
Belgium	6 321	5 953	5 702	5 702	5 544	5 352
Bulgaria	1 083	1 029	978	978	829	782
Cyprus	457	499	518	518	536	499
Czech Rep.	2 941	3 027	2 748	2 748	2 479	2 379
Denmark	4 843	4 553	4 847	4 847	4 518	4 679
Estonia	519	473	363	363	374	438
Finland	3 593	3 772	3 692	3 692	3 751	3 856
France	65 037	69 426	66 251	66 251	62 741	62 582
Germany	47 382	49 174	49 692	49 692	48 164	48 617
Greece	10 995	11 455	8 869	8 869	6 709	6 972
Hungary	1 817	1 619	1 452	1 452	1 378	1 100
Ireland	1 459	1 440	1 373	1 373	1 301	1 235
Italy	41 160	40 002	38 869	38 869	37 670	35 719
Latvia	597	379	287	287	297	279
Lithuania	698	532	448	448	445	430
Luxembourg	294	293	360	360	363	359
Malta	57	62	63	63	56	56
Netherlands	12 325	12 590	12 061	12 061	11 344	10 395
Poland	8 324	8 924	9 316	9 316	9 448	9 912
Portugal	4 762	5 205	5 294	5 294	4 866	3 980
Romania	2 937	2 498	2 300	2 300	2 380	2 406
Slovakia	1 474	1 410	1 233	1 233	1 061	1 072
Slovenia	823	829	825	825	665	562
Spain	18 584	17 820	15 977	15 977	13 990	12 185
Sweden	6 337	6 215	6 726	6 726	6 324	6 424
UK	63 074	64 301	62 946	62 946	60 284	59 795
<b>Total EU</b>	<b>311 652</b>	<b>316 990</b>	<b>306 680</b>	<b>306 680</b>	<b>290 928</b>	<b>285 476</b>

**Source:**

[http://www.sipri.org/research/armaments/milex/research/armaments/milex/research/armaments/milex/milex\\_database](http://www.sipri.org/research/armaments/milex/research/armaments/milex/research/armaments/milex/milex_database)

countries in these regions will remain very important recipients and customers of Western defense firms.

Table 1 shows that the decreasing trend in military spending in the European Union, which started in 2010, continued in 2012. The largest decreases in military spending have taken place in the most debt-affected countries in southern Europe, mainly Greece, Spain, Portugal and Italy. Major European spenders such as France and the United Kingdom, either cut their military budgets compared to previous years or, like Germany, are budgeting less spending within the next few years. In total, military spending in the European Union between 2011 and 2012 fell by 1.8 percent and

in total by 8.4 percent between 2008 and 2012. It is expected that defense budgets will decrease further over the next years as the financial crisis continues. However, this decrease in military spending will not necessarily translate into reduced military procurement since large chunks of the budget are spent on salaries and pensions which governments tend to cut back primarily (Slijper, 2013).

Table 2 shows that military spending in Asia and the Middle East has increased by 22 percent and 21 percent over the past five years, respectively. Latin American countries also built up their defense budgets by 16 percent in this five year period. The rise

**Table 2: Regional military spending, 2008 to 2012**  
(in US \$ million at constant (2011) prices)

	2008	2009	2010	2011	2012
<b>Africa</b>	<b>30.3</b>	<b>31.6</b>	<b>33.6</b>	<b>37.1</b>	<b>38.3</b>
North Africa	10.1	11.1	12.0	15.1	16.2
Sub-Saharan Africa	20.2	20.5	21.6	22.0	22.0
<b>Americas</b>	<b>736.9</b>	<b>793.4</b>	<b>817.2</b>	<b>807.9</b>	<b>767.6</b>
North America	670.9	724.0	743.2	734.7	691.2
Central America & the Caribbean	6.3	7.1	7.7	8.0	8.6
South America	59.6	62.3	66.4	65.3	67.7
<b>Asia and Oceania</b>	<b>312.3</b>	<b>348.5</b>	<b>355.3</b>	<b>369.5</b>	<b>381.5</b>
Central Asia	2.1	2.0	2.2	2.4	2.9
East Asia	233.1	259.6	265.3	278.0	292.1
South Asia	50.5	58.3	58.8	59.7	58.2
Oceania	26.6	28.6	29.0	28.5	27.5
<b>Europe</b>	<b>419.2</b>	<b>428.4</b>	<b>418.6</b>	<b>410.5</b>	<b>418.6</b>
Western Europe	318.5	325.9	315.8	301.6	296.4
Eastern Europe	76.6	78.9	80.2	87.0	100.3
Central Europe	24.2	23.6	22.6	22.0	21.9
<b>Middle East</b>	<b>106.3</b>	<b>109.2</b>	<b>114.7</b>	<b>116.9</b>	<b>127.7</b>

**Source:**

[http://www.sipri.org/research/armaments/milex/research/armaments/milex/research/armaments/milex/milex\\_database](http://www.sipri.org/research/armaments/milex/research/armaments/milex/research/armaments/milex/milex_database)

in most defense budgets is driven by major military modernization programs, which include the procurement of major conventional weapons such as fighter aircraft, land systems and ships. Although there are some cuts in the defense budgets due to economic pressure, it is likely that these countries continue their military modernization efforts over the coming years. Countries like India and Vietnam have seen a surge in their military spending between 2008 and 2012 of 16 percent and 44 percent respectively, mainly as a result of tensions in the region. There are concerns that the increase in Chinese military spending may fuel a regional arms race<sup>6</sup> (Grebe and Schwarz, 2013).

## 2.1 New players on the global arms market

Wanting to decrease their dependency on arms imports, emerging economies are continuing their efforts to acquire new defense technologies in order to enhance their defense industry. It is true that today, economic reasons play a minor role in the

desire for an independent defense industry. Major arms deals, which are part of a buyer's broader security strategy, often include the transfer of defense technology and the establishment of production capacities in the recipient country (Grebe and Schaeede, 2012: 25). This in turn will increase the prospect for a further proliferation of military equipment and arms. Countries like the Republic of Korea, India, and Brazil often assemble imported material packages under an arms deal locally and produce a range of weapons under license in order to learn from the process. When Russia acquired two Mistral ships in 2009, it insisted on assembling the ships domestically to secure the deal (Vranckx, 2010). All countries mentioned often secure long-term cooperation deals with the original supplier. A few examples, like the A-Darter Project between South African defense company Denel and Brazil for the production of a short range air-to-air missile as part of a larger cooperation between Brazil, India and South Africa through the IBSA-Dialogue Forum, indicate that there are probably significant changes in the global arms market as countries in the South extend their defense industry cooperation to also increase their position as exporters on the world market (DefenceWeb, 2013). Although

<sup>6</sup> Data on Chinese military spending is difficult to obtain. Whereas SIPRI calculates Chinese spending for 2012 to be around US \$157 billion, which would be a 48 percent increase compared to 2008, official figures from the Chinese government put the defense budget at around US \$95.6 billion (SIPRI 2013, New York Times, 2012).

**Table 3: The major EU arms exporter, 2007 to 2011**  
(in millions of euro)

	2007	2008	2009	2010	2011	Total, 2007–2011
France	9 849	10 558	12 668	11 182	9 992	54 248
Germany	3 668	5 788	5 043	4 754	5 415	24 668
Italy	4 744	5 661	6 693	3 251	5 262	25 611
Netherlands	717	1 258	1 315	922	416	4 627
Spain	1 962	2 526	3 193	2 238	2 871	12 791
Sweden	1 011	1 159	1 097	1 402	1 189	5 858
UK	1 312	2 466	3 462	2 837	7 003	17 080
<b>Total EU</b>	<b>27 100</b>	<b>33 500</b>	<b>40 302</b>	<b>31 723</b>	<b>37 525</b>	<b>170 149</b>

**Source:** Council of the European Union, EU annual reports, <http://eur-lex.europa.eu/en/index.htm>

**Note:** Generally, the EU's aggregated data on member states' arms exports should be treated with caution since there is a lack in consistency. Reporting systems differ and EU member states report different data on licenses and actual transfers to the EU.

so-called second-tier arms producers like Australia, Brazil, India, Japan, or South Africa have undertaken enormous efforts to counter the technological challenges they face on their journey towards autonomy in the defense sector, they still rely heavily upon foreign suppliers. Given their objective to build up their domestic defense industry, European companies continue to provide most of the defense technology and military equipment (Bitzinger, 2010: 216f). Competition among export nations, however, has become increasingly intense over the years and defense companies have worked towards utilizing flexible financing options, co-production, licensed production and co-assembly in new arms sale deals to overcome the obstacles of limited defense budgets and the increasing competition on the world market (Grimmett, 2012: 4f).

## 2.2 The shift towards non-EU countries—Gaining access to outside markets

Although intra-EU transfers accounted for 38.6 percent of all arms exports in 2011 (€14.5 billion), data from the EU annual arms export reports show the importance of recipient countries outside the European Union, Europe and North America for most of the EU defense companies. In 2007, countries in Latin America, the Middle East, Asia and Africa accounted for 33 percent of all EU countries' arms exports. This increased to 54 percent in 2010 to drop to 47 percent in 2011. Although there was a decrease in 2011, the total value of arms exports stagnated at around €16.4 billion (see Table 4). Outside the European Union and North America, the Middle East (€7.9 billion), followed by Asia and Oceania (€6

billion), continued to be the most important recipients of EU arms exports in 2011. They accounted for 21 percent and 17 percent respectively of all exports in 2011. Generally, the Middle East, and Asia and Oceania have been the major recipients of European arms exports outside Europe and North America over the past five years. Whereas Latin America accounted for 12 percent of all EU arms exports in 2010, this share dropped to 5.6 percent in 2011. Countries in Sub-Saharan Africa remain of less importance for European defense companies as they accounted for around 1.3 percent of all arms exports in 2011. The share of countries from North Africa fell from 5.2 percent in 2010 to 3.2 percent in 2011. This could be partly because of political pressure in the aftermath of the Arab Spring that started in February 2011. Besides the general importance of the European market for the defense industry, this overview shows the growing importance of external markets to European defense companies for their general business and for compensating reductions in domestic demand. Given the fact that defense companies are under severe pressure due to austerity measures, export success will be a vital factor for the future of defense producers in the EU (Wulf, 2011: 23).

**Table 4: EU Member States' arms transfers to specific regions  
(in millions of euro, volume of licenses issued)**

	2007	2008	2009	2010	2011
EU	10 660	10 597	9 630	9 000	14 495
Other European countries	2 133	3 094	1 641	1 746	1 837
North America	2 869	3 176	4 640	3 919	3 588
South America	485	770	2 170	1 626	714
Middle East	2 148	4 963	9 638	6 660	7 975
South Asia	2 020	1 758	2 072	1 942	2 464
Southeast Asia	1 963	2 642	2 106	1 940	1 779
Northeast Asia	446	2 726	787	831	835
Oceania	913	2 236	1 034	1 493	946
Central Asia	71	20	20	71	517
North Africa	578	985	2 033	1 664	1 201
Sub-Saharan Africa	621	364	570	316	494
Central America and the Caribbean	48	38	170	514	660
<b>Total EU</b>	<b>27 100</b>	<b>33 499</b>	<b>40 302</b>	<b>31 723</b>	<b>37 525</b>

**Source:** Council of the European Union, EU annual reports, <http://eur-lex.europa.eu/en/index.htm>

**Table 5: EU Member States' arms transfers to specific regions  
(in percent of total EU Member States' exports)**

	2007	2008	2009	2010	2011
European Union	39.3	31.6	23.9	28.4	38.6
Other European countries	7.9	9.2	4.1	5.5	4.9
North America	10.6	9.5	11.5	12.4	9.6
South America	1.8	2.3	5.4	5.1	1.9
Middle East	7.9	14.8	23.9	21.0	21.3
South Asia	7.5	5.2	5.1	6.1	6.6
Southeast Asia	7.2	7.9	5.2	6.1	4.7
Northeast Asia	1.6	8.1	2.0	2.6	2.2
Oceania	3.4	6.7	2.6	4.7	2.5
Central Asia	0.3	0.1	0.0	0.2	1.4
North Africa	2.1	2.9	5.0	5.2	3.2
Sub-Saharan Africa	2.3	1.1	1.4	1.0	1.3
Central America and the Caribbean	0.2	0.1	0.4	1.6	1.8

**Source:** Council of the European Union, EU annual reports, <http://eur-lex.europa.eu/en/index.htm>

### 3 EU Member States' adherence to the Criteria of the EU Common Position

Generally, assessing the adherence of EU Member States to the Criteria of the EU Common Position is difficult as it is problematic to directly link a refusal of a license application to the Criteria of the EU Common Position. Even if a refusal is based on one or more Criteria one cannot prove whether national

legislation would have prevented such an export anyway. The lack of publicly available information by EU Member States on the national interpretation of the EU Common Position Criteria inhibits a systematic evaluation of the Criteria's interpretation and EU Member States' adherence. Although the reasons for a refusal of a license application are reported in the annual report, there are no disaggregated data on the denials of licenses for each exporting country. This

**Table 6: Implementation of the EU Common Position into national law or administrative rules**

Status	Member State
Complete implementation	Austria, Cyprus, Estonia, Finland, Hungary, Latvia, Lithuania, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden
Amendments to existing national export control mechanisms	Czech Republic, Denmark, France, Germany, Netherlands, United Kingdom
Progress in national legislation	Greece, Ireland, Romania
Ministerial Decree	Bulgaria (November 2009 – implementation considered to be completed)

**Source:** Council of the European Union, EU annual reports, <http://eur-lex.europa.eu/en/index.htm>

**Note:** Contrary to information in the latest EU annual report on arms exports, which states that Belgian law is currently under review, this review was completed in June 2012. Italy is currently drafting a new law, which is supposed to include the EU Common Position. There is no information available for Luxembourg.

makes it impossible to compare any national application of the Criteria. While the category of the 'military list' in which the license application was denied is generally reported, there is no clear distinction as to the exporting country. Therefore, a general assessment of which of the EU Common Position Criteria had been invoked by what exporting country is not possible (Bauer, 2004b). Given the different decision-making procedures among EU Member States, refusals remain a rather vague indicator for harmonization. In Germany, for example, preliminary inquiries by defense companies to gain information on the success of a potential license application are not published at all. Denials therefore occur mostly in borderline cases (Bromley and Brzoska, 2008). Despite this, the Criteria leave much room for interpretation and are applied differently across the European Union and over time. Events such as the Arab Spring certainly have a (limited) influence on the importance of certain Criteria.

Besides, it is important to note that the EU Code of Conduct and the EU Common Position have had a general impact on European arms export policies and on the harmonization among Member States, although the implementation of the EU Common Position into national legislation or administrative rules differs among EU Member States (see Table 7 below). Yet, a consistent and coherent implementation of the EU Common Position is an important condition and represents the necessary framework for harmonized EU Member States' arms export policies.

### 3.1 Denials of arms export licenses: Current state of research

A number of studies have assessed the impact of the EU Code of Conduct on arms exports, national export control, and domestic arms export policies as well as its application with regard to national legislation (Holm, 2006, Bromley, 2007; Bromley, 2008b; Brzoska and Bromley, 2008). Holm, for example, has shown significant differences in export trends as well as in the application and interpretation of the EU Code of Conduct in Belgium, Germany and Italy (Holm, 2006: 229). While most studies concluded that the application of the EU Code of Conduct depends on the country, there are also differences among EU Member States on how each criterion is applied when denying an export license. According to Bauer, the Code reports show that the Code Criteria have not been equally relevant to licensing decisions. Criterion eight, which considers the compatibility of the export with a country's technical and economic development, has played a minor role across the EU. A large share of the denials refers to the risk of armed conflict and regional stability, whereas the human rights criterion has been invoked less frequently (2004b: 41).

This conclusion is supported by current data of the EU annual reports. As it is shown in Table 6 below, Criteria are not applied uniformly when an export license is denied. It shows that namely Criterion eight (diversion of socio-economic resources in favor of military capabilities) and Criterion six (respect of international law) are only used very rarely. Generally, Criterion seven was invoked most often by EU Member

**Table 7: Number of refusals based on the Criteria of the EU Common Position**

	Criterion								Total refusal	Total number
	one	two	three	four	five	six	seven	eight		
2011	77	157	134	68	12	4	183	2	637	48 123
2010	54	102	74	70	9	9	236	4	558	64 848
2009	73	136	121	87	24	3	229	1	674	62 482
2008	64	79	100	61	30	8	179	7	528	44 634
2007	92	83	129	114	41	4	185	34	682	51 015
2006	55	104	122	88	30	7	167	18	591	37 547
2005	58	58	133	101	29	6	173	31	589	31 550
2004	58	54	81	78	22	1	106	14	414	28 716
2003	50	75	87	4	5	6	153	31	411	31 038
2002	23	83	104	77	8	24	127	14	448	36 063
2001	156	67	65	61	3	0	85	21	458	25 456
<b>Total</b>	<b>760</b>	<b>998</b>	<b>1 150</b>	<b>809</b>	<b>213</b>	<b>72</b>	<b>1 823</b>	<b>165</b>	<b>5 990</b>	<b>461 472</b>

**Source:** Council of the European Union, EU annual reports, <http://eur-lex.europa.eu/en/index.htm>

**Note:** The last column indicates the total number of arms export licenses for each year.

States to refuse a license application. This might be an indication that Criterion seven is very important, but at the same time it is often said to be one of the most challenging to apply since a general risk assessment needs to cover a variety of issues and can remain vague. It might also be the case that Criterion seven is used because it is legally admissible. Besides that, it is important to note that in most cases EU Member States invoke more than one Criterion to issue a denial.

Data from the EU annual reports also show that Criterion three (internal situation/ tensions or armed conflicts) in a recipient country does play a role when denying an export license (see Table 6). Contrary to what Bauer stated, EU annual reports data also show that Criterion two (human rights) has been used quite often in the decision-making process and led to the denial of licenses. Particularly in 2011, there was an increased use of Criterion 2 as it was invoked in almost 25 percent of all refusals.

While there is a general overview over the number of denials, the application of the Criteria differs from year to year. Whereas in 2009 and 2010, for example, EU Member States issued around 20 denials to Georgia and at the same time issued licenses worth €16 million and five million euro, respectively, this number dropped to six denials in 2011, while licenses worth €44 million were issued. Additionally, Pakistan and Israel are regularly among the countries with the highest number of denials, although this decreased for Pakistan in 2011. EU Member States refer to almost all Criteria. Generally, most denials are issued for countries that are under embargo, mainly China. In the case of China, for example, the arms embargo covers only lethal

items and major weapon platforms, other goods and items such as military technologies are not considered to fall under the embargo. This is also the case for other countries that are under an arms embargo; deliveries of military equipment as part of peacekeeping missions are often excluded from the embargo. For this reason, EU Member States are able to export military equipment to embargoed states. However, the number of applications for arms exports to Libya that were denied increased sharply in 2011, most likely as a response to the events in the country and the embargo by the European Union. Interestingly, it seems that in some cases, EU Member States change their assessment of a specific country. Although it is possible to assess the number of denials issued for each country and the Criteria that are used, one cannot specifically link the denials listed in the annual EU arms export report to an individual EU Member State. An analysis of the national reports is necessary to get the full picture.

Studies with a specific focus on Criterion two of the EU Code of Conduct arrived at different findings. Trinchieri (2008: 45), for instance, studied the export of small arms and light weapons with regard to human rights violations and concluded that "in general, the recognition of a country in violation of human rights standards is highly dependant on the political, strategic and commercial interest of the EU and of the Member States". Thus, the interpretation and application of Criterion two of the EU Common Position is very much influenced by the strategic importance of the recipient country. However, according to a study by Bromley and Brzoska (2008), policy changed significantly after the adoption of the EU Code of Conduct

as exports of major conventional weapons to countries with severe human rights violations decreased. Additionally, "those states with poor human rights records received, on average, significantly fewer weapons from EU Member States after the adaptation of the EU Code" (ibid.: 354). Although findings of this study indicate a change in policy, the scope of the study remains limited, for good methodological reasons, to major conventional weapons only.

Although, as shown above, Criterion three is regularly used in denying arms exports licenses, the application of this Criterion, which refers to the internal situation in the recipient country, is at best marginal, as a study concludes. Although the language of the EU Common Position is strongly worded, the study summarizes that "the introduction of the Code has certainly not stopped the export of arms to countries in which there is protracted civil war" (Jackson et al., 2005: 74). Bromley and Brzoska (2008: 355) come to a similar conclusion with regard to policy change after the adoption of the EU Code of Conduct and conclude that at least these effects are "limited to the norms relating to human rights and conflict, indicating that these are more powerful than the other norms referred to in the EU Code." Other authors arrived at a far more negative assessment on the effectiveness of European arms export regulations and concluded that "restrictive export regulations, although in force in the EU, are not applied rigorously. Therefore, in practical terms, export regulations are not limiting companies' export strategies" (Wulf, 2011: 23).

While the EU Common Position and its predecessor, the EU Code of Conduct, contain minimum norms for arms exports, which all EU Member States should adhere to, studies have shown that the interpretation of the Criteria is very different and that European arms do reach critical destinations (Vranckx, 2010; Vranckx et al., 2011).

Since the adoption of the ICT-Directive, the EU defense market has started to slightly change, although it is still too early to assess the effects of the ICT-Directive. Regulations and licensing procedures for intra-EU transfers have been softened and, in general, the development of a common European defense market has seen some progress. Against this background, the uniform implementation of the EU Common Position, a better coordination, and a further harmonization to strengthen the EU-wide export control system becomes more important. Despite the fact that the effects of the ICT-Directive on EU arms export control—also in the light of destabilizing arms exports from the EU to third countries—have not yet been studied, a strong EU-wide export control system is necessary (Depauw, 2010).

### 3.2 The BICC database as a tool for assessing the Criteria of the EU Common Position

The direct correspondence between the Criteria in the EU Code of Conduct/ EU Common Position and individual recipient countries can only be evaluated to a certain extent, since most of the Criteria are meant to be applied to the specific conditions and circumstances of a particular arms export rather than to the recipient state as a whole. That is: With the exception of Criterion six, decisions on whether an export application is either approved or denied would not so much focus on the country of destination per se but take into account the individual nature of the arms transfer in question. Depending, for example, on the kind of end-user, the type of equipment and its overall value, possible export restrictions would be considered and reconsidered on a case-by-case basis. This evaluation of whether or not EU Member States adhered to the Criteria of the EU Common Position is largely based on the research conducted by the Bonn International Center for Conversion (BICC) for its database on the correspondence of recipient countries to the eight Criteria.<sup>7</sup> The BICC database contains a variety of country-based datasets, which serve as a valuable information source for decision-makers and the general public. Above all, it gives a rough indication of how individual countries correspond to areas important to issues of arms export control policy as identified in the EU Common Position. In each area, every country is classified in accordance to an evaluation system—'critical', 'possibly critical' or 'not critical'—with 'critical' pointing to a high probability of severe deficits with regard to the Criteria of the EU Common Position.<sup>8</sup> Currently, the database contains information and data for 174 countries.<sup>9</sup> Yet, the BICC database cannot and does not want to substitute the essentially political decision-making process, which needs to carefully examine every export application in its own light. Its aims are thus rather modest. Within and across the EU Criteria, it provides general information and data, which may be applied to the country of destination as a whole and thereby serve as reference points for evaluating its relative performance vis-à-vis some key aspects contained in the

<sup>7</sup> The database can be accessed at <<http://www.bicc.de/ruestungsexport/index.php/db>>.

<sup>8</sup> Coding Criterion five is particularly challenging since this remains a highly sensitive and essentially political decision, thus coding in the database remains very vague.

<sup>9</sup> Further information and the coding of each Criterion can be found at Bonn International Center for Conversion (BICC): Monitoring Adherence to the EU Code of Conduct on Arms Exports by Means of an Online Database and Web-GIS, Bonn: BICC. <[http://www.bicc.de/ruestungsexport/neu/uploads/images/website\\_manual.pdf](http://www.bicc.de/ruestungsexport/neu/uploads/images/website_manual.pdf)>.

EU Common Position. The classifications should not be misunderstood as a definite recommendation as to whether a particular arms export license should be granted or not.

### **3.3 The adherence to the Criteria of the EU Common Position**

However, despite these limitations in making a detailed assessment of the correspondence of EU Member States' arms exports to the Criteria of the EU Common Position, and despite some restrictions as mentioned above, one can still make a general assessment and take a closer look at some developments regarding the adherence to the Criteria of the EU Common Position. Countries that are classified as critical in at least one of the Criteria in the evaluation system are rated as problematic, whereas countries that are classified as critical in at least four of the Criteria in the evaluation system are rated as critical. Countries that are classified in at least six of the Criteria are usually countries that are under an arms embargo.

#### *3.3.1 A problematic group of countries—Rated critical in at least one of the Criteria*

In 2007, EU Member States issued licenses worth €9.7 billion for arms exports to 111 countries, which can be rated as problematic, and thus classified as critical in at least one of the eight Criteria spelled out in the EU Common Position. The volume of arms export licenses increased sharply in 2011 to licenses worth €17.2 billion destined for 115 countries. However, this represents a drop from an all-time high in 2009 when EU Member States issued licenses worth €18.5 billion to then 106 countries, which can be classified problematic. The major recipients of EU Member States' arms exports in 2011, which can be rated as problematic, are countries like Brazil, Egypt and the United Arab Emirates, as well as countries like Russia and Kuwait.

#### *3.3.2 A critical group of countries—Rated critical in at least four of the Criteria*

In 2007, the EU Member States issued licenses worth five billion € to 52 countries that can be rated as critical in at least four of the eight Criteria spelled out in the EU Common Position. There has been a sharp increase between 2008 and 2009. While in 2008, EU Member States issued licenses worth €7.2 billion to 55 critical countries, this increased to licenses worth €10.4 billion to a total of 47 countries in 2009. In 2011, EU Member States have issued licenses worth €10.7

billion to 60 countries that can be rated as critical. Major recipients of EU Member States' arms exports, which can be rated as problematic, are countries like India and Saudi Arabia as well as countries like Algeria, Mexico, and Pakistan. Generally, it is important to note that in 2011 these specific countries are responsible for 70 percent of all EU Member States' arms exports to critical countries.

#### *3.3.3 The correspondence to Criterion two: Human Rights*

While in 2007, for example, EU Member States issued licenses worth €8.2 billion to 88 countries which can be rated as critical under Criterion two (human rights), the volume of licenses increased to €11.3 billion in 2011 to 61 countries. (Dropping from €12.8 billion in 2010 to then 88 countries.) This is a clear indication that EU Member States continue to export military equipment to countries that are critical regarding their evaluation of the overall adherence to internationally recognized human rights standards. As a result, this points towards serious human rights problems in these countries. Countries among this group are again the major recipients of EU Member States' arms exports like Saudi Arabia and the United Arab Emirates as well as countries like Mexico, Turkey and Oman.

The data reveal that the adherence of EU Member States to the Criteria of the EU Common Position raises questions in a number of cases. The volume of arms exports to countries, which rated critical in at least one of the eight Criteria, continues to be quite substantial. A closer look at the EU annual reports shows that EU Member States continue to interpret the Criteria of the EU Common Position differently. For example, EU Member States issued licenses worth €492 million for arms exports to Pakistan in 2010, while at the same time they also denied 25 licenses with reference to Criterion two, three, four, six and seven. The same applies for India, where EU Member States issued licenses worth €1.5 billion in 2011 and at the same time denied 14 license applications with reference to all Criteria of the EU Common Position except Criteria six and eight.

There is no common understanding among EU Member States of the correspondence to the EU Common Position Criteria by recipient countries. Since decisions on arms exports fall within the national sovereignty of the EU Member States, there is no regular assessment or discussion among them. The regular COARM meetings do not seem to offer the framework needed for a more thorough exchange. Although there is an increased information exchange and a denial database, the decision-making within



governments remains very isolated, a major factor for the different interpretation.

### 3.4 EU arms exports and the Criteria of the EU Common Position: An assessment of selected cases

Besides evaluating the results of the database, the study will now focus on a number of case studies in which the adherence of EU Member States to the Criteria of the EU Common Position is examined in more detail. The analysis will elaborate recent arms exports to selected countries and examine the level of harmonization by assessing the decision-making process with regard to the eight Criteria in favor of or against granting an export license.

#### 3.4.1 Saudi Arabia

Saudi Arabia is an important customer for the European defense industry and regularly imports military equipment from Europe. Between 2007 and 2011, EU Member States—among them the biggest EU arms exporters, France, Germany and the United Kingdom—issued arms export licenses for around €14.8 billion (see Table 8). Between 2007 and 2011, France issued licenses worth €5.3 billion for arms exports to Saudi Arabia, the highest figure among EU Member States, followed by the United Kingdom that issued licenses worth €4.7 billion during this period. There was a sharp increase of arms exports to Saudi Arabia by Sweden and the United Kingdom in 2011 compared to the previous year, issuing arms export licenses worth €496 million and two billion euro, respectively.

had signed a major contract for the delivery of Mistral 2 land-based low-altitude air-defense systems. This order from Saudi Arabia was considered the first major step in what is seen as a defense package worth US \$2.5 billion between these two countries, potentially including the sale of helicopters, transport/ tanker aircraft and air-defense systems (Jane's Defence Weekly, 2007a). In January 2008, it was confirmed that Saudi Arabia had decided to buy three Airbus 330 Multi Role Tanker Transporter (MRTT) from EADS (with France being part of EADS); in July 2009, it ordered an additional three. The first batch was delivered in early 2013 from Spain (also a member of the EADS consortium) which will also export the second batch, and the A330 MRTT entered into Service in February 2013 (Airforce Technology, no year).

In March 2010, Saudi Arabia received the first batch of 100 CAESAR artillery systems, which were ordered in July 2006. The delivery was completed by the end of 2011. In September 2011, Saudi Arabia placed an order for an additional 32 CAESAR artillery systems worth €169 million for the National Guard with the delivery most likely to start in 2013 (Barreira, 2010; Barreira, 2012a). The delivery of more than 250 Aravis armored personnel carriers, which were ordered in 2011 and 2011, is currently delayed, because Germany refuses to issue the licenses for the export of the chassis. The German decision also delays the export of up to 68 Multi-Purpose Combat Vehicles (MPCV), armed with Mistral anti-air missiles and designated for the National Guard (Tran, 2013). Obviously, the defense industry tried to push the governments for a solution of the problem and demanded from the

**Table 8: Value of arms exports licensed by selected EU Member States to Saudi Arabia, 2007 to 2011 (in millions of euro)**

	2007	2008	2009	2010	2011	Total, 2007–2011
Belgium	104	269	338	50	253	1 014
France	796	1 092	1 064	1 471	937	5 359
Germany	45	170	168	152	140	676
Italy	65	23	1 101	435	166	1 790
Sweden	6	2	0.3	57	497	561
UK	72	413	1 909	329	2 017	4 740
<b>Total EU</b>	<b>1 103</b>	<b>1 991</b>	<b>5 042</b>	<b>2 539</b>	<b>4 205</b>	<b>14 140</b>

**Source:** Council of the European Union, EU annual reports, <http://eur-lex.europa.eu/en/index.htm>

France has exported different military equipment to Saudi Arabia over recent years and is trying to manifest its position as an important supplier of weapons for Riyadh. Between 2007 and 2011, France issued licenses worth €5.3 billion for arms exports to Saudi Arabia. Back in December 2006, Saudi Arabia and France

Germany authorities to grant the licenses. Although there is a high degree of cooperation and coordination among European defense companies, this is an indication that there remain problems on the EU level, which might be caused by the lack of a single market.

The United Kingdom issued licenses worth €4.7

billion for arms exports to Saudi Arabia between 2007 and 2011. In 2007, UK-based BAE Systems finalized a deal to sell 72 Typhoon fighter aircraft to the Saudi Air Force with a volume of up to £4.4 billion. This figure could increase to up to £30 billion over the next 25 years if one includes logistics and support provided. Delivery of the first 24 Typhoon began in 2009 and ended in 2011. The remaining 48 should originally have been delivered from 2011 onwards upon commissioning of the assembly facility in Saudi Arabia (Ripley, 2007). However, after concerns about the security at the assembly facility in Saudi Arabia, it was announced in February 2013 that the remaining 48 aircraft will be built in the United Kingdom and delivered to Saudi Arabia from late 2013 on, although pricing remains an unresolved issue.

Germany issued licenses worth €675 million between 2007 and 2011 for arms exports to Saudi Arabia, the fifth highest figure among EU Member States. This included the delivery of up to 750 air-to-air missiles (IRIS-T) between 2010 and 2012 designed for Tornado and Typhoon fighter aircraft.<sup>10</sup> In 2008, Germany granted licenses for the export of pepper spray and electro-shock devices. Previously, Germany had issued licenses for the export of a G-36 assault rifle production facility to Saudi Arabia (GKKE, 2012a). Recently, the German Federal Ministry of Economics and Technology published more up-to-date data on the value of licenses for arms exports to Saudi Arabia at the request of the German parliament. In 2012, the German government issued licenses worth €1.2 billion for the export to Saudi Arabia, which is twice as much as the government had granted between 2007 and 2011 (Deutscher Bundestag, 2013). This includes the delivery of border control systems worth €1.1 billion, which is mainly supplied by EADS Cassidian (Deutscher Bundestag, 2012). Most recently, media reports about the interest of Saudi Arabia in buying fast patrol boats from Germany worth US \$1.5 billion again sparked the debate about transparency in arms exports and the willingness of the German government to supply weapons to Saudi Arabia. In the past two years, public debate in Germany was often centered around potential arms exports to Saudi Arabia, including the delivery of 600 to 800 Leopard 2 A7+ tanks, hundreds of armored personnel carrier (Boxer) and up to 30 Dingo 2 infantry fighting vehicles worth €100 million (GKKE, 2012b; Deutsche Welle, 2013). The potential deals with Saudi Arabia have led to a fierce debate in Germany about arms exports to the Middle East and particularly to Saudi Arabia. While on the one hand, the government strongly supported the provision of German allies

with military equipment, critics on the other warned about the arms race in the Middle East and referred to the deficient human rights situation in the country (GKKE, 2012b). Generally, the government justifies its decisions by pointing out that with the help of arms exports, partners in conflict regions are enabled to provide their own safety and thus become an “anchor of stability”. Although there might be a change of policy on the horizon, it is currently open whether there will be a true paradigm change or whether this ‘only’ constitutes a shift in the pillars of the German arms export policy that is based on security policy interest (Krause, 2013; Brzoska, 2013; Moltmann, 2013).

Generally, Sweden granted licenses for arms exports to Saudi Arabia between 2007 and 2011 worth €561 million. In late 2010, Swedish defense company Saab announced a US \$670 million deal for the sale of two Saab-2000 airborne early warning & control systems (Local, 2010a). While the volume of arms exports to Saudi Arabia had generally been very low over the past years, there was a large increase in their exports in 2011 due to the issuing of one license under category 10 of the Military List (aircraft) worth €496 million. There was widespread criticism in Sweden about this deal, as opposition members in Parliament raised their concerns about delivering weapons to a dictatorship like Saudi Arabia (Local, 2010b).

In the period 2007 to 2011, EU Member States also denied one application to export military equipment to Saudi Arabia (see the respective EU annual reports). In 2011, Criterion seven was cited once when EU Member States denied a license application for exports to Saudi Arabia under category one of the Military List (mainly small arms and light weapons). Limitations in reporting make it impossible to elaborate which EU Member State issued the denial. National reports, for example from Germany, do provide additional information. Discrepancies, however, between the EU annual report and the national reports make a thorough assessment difficult. The national report of the German government of 2011 indicates that it denied one license under category five of the Military List (fire control and countermeasure equipment) using Criterion seven of the EU Common Position. However, this denial is not listed in the EU annual report.

The data of the EU annual reports also reveal a differing interpretation of the Criteria of the EU Common Position, which indicates that there is a lack of harmonization in EU Member States' arms exports to Saudi Arabia. For example, in 2011, EU Member States issued licenses worth €108 million for the export of small arms and light weapons (category one of the Military List), of which licenses worth €74 million were issued by Belgium. In the same year, EU Member States

<sup>10</sup> <http://www.sipri.org/research/armaments/transfers/databases/armstransfers>

denied one license under this category with reference to Criterion seven of the EU Common Position.

Given the poor human rights record, the internal situation, the conflict at the Saudi–Yemeni border as well as the willingness of the Saudi government to intervene in foreign countries, as it has demonstrated with the military intervention in Bahrain in 2011, it is surprising that EU Member States only denied one license over the past five years.

### 3.4.2 Russia

Between 2007 and 2011, the EU Member States, among them the biggest arms exporters of the European Union, namely France, Germany and the United Kingdom, issued arms export licenses worth €941 million (see Table 11). Between 2007 and 2011, France issued licenses worth €443 million for arms exports to Russia, the highest figure among EU Member States. Arms exports to Russia increased in 2011 mainly because of large exports by France and Germany.

While Russia has been a customer of European defense companies for quite some time (see Table 9), the acquisition of Mistral-class ships has been the first-ever sell of major conventional weapons of a NATO state to Russia. A Mistral-class ship is capable of carrying 16 helicopters, four landing barges, up to 70 vehicles including 13 main battle tanks, and 450 soldiers, and can be used as an amphibious command ship. The naval version of the Russian Ka-52K helicopter, which is currently under construction and will be tested from 2014 onwards is to be stationed on the ship. Concern about this deal was raised from the beginning and critics warned about the ambiguous interpretation of the Criteria of the EU Common Position (for an overview see: Vranckx, 2010). The Latvian government expressed concern about this deal urging consultation among EU/NATO Member States should the sale of military equipment compromise the security of other EU Member States (Rettmann, 2010). The French–Russian deal also led to questions by the European Parliament to the Council of the European

**Table 9: Value of arms exports licensed by selected EU Member States to Russia, 2007 to 2011 (in millions of euro)**

	2007	2008	2009	2010	2011	Total, 2007–2011
Austria	5	4	2	4	5	20
France	151	36	60	65	131	443
Germany	31	41	14	19	144	249
Italy	0.1		1	1	99	101
UK	5	15	41	13	8	82
<b>Total EU</b>	<b>210</b>	<b>118</b>	<b>132</b>	<b>106</b>	<b>376</b>	<b>942</b>

**Source:** Council of the European Union, EU annual reports, <http://eur-lex.europa.eu/en/index.htm>

In August 2009, Russia announced that it was interested in buying Mistral class amphibious assault ships and started negotiations with France over the deal, which included the option for further three ships that were supposed to be constructed jointly in Russia (RIA Novosti, 2009). One year after the beginning of the negotiations—Spain and the Netherlands had also entered the bidding process but lost the tender in the end—it was announced that Russia had decided in favor of the French offer (Vranckx, 2010). In June 2011, Russia and France signed a US \$1.2 billion contract for two French-built Mistral class ships constructed in France by French ship builder DCNS. Construction of the first of two ships started in 2012, and the keel laying ceremony took place in February 2013 at STX Shipyard in St. Nazaire. The first ship, Vladivostok, is scheduled for delivery in 2014, while the second ship, Sevastopol, will be handed over to the Russian Navy in 2015 (Ottawa Citizen, 2012).

Union raising concerns about the delivery of Mistral-class ships and questioning the interpretation of the Criteria of the EU Common Position (European Parliament, 2011).

In 2011, Italy issued licenses worth €99 million for arms exports to Russia. Coincidentally, in December 2011, Italy finally signed a deal with Russia on the export of 60 M-65E light multirole vehicles (LMV) to be used by the Russian military. It is currently unclear whether Russia wants to import yet another 300 LMV on top of the ones they had already agreed on earlier or whether they will turn to locally produced vehicles (RIA Novosti, 2013). The first 58 vehicles were produced locally at a plant in Voroznezh, the remaining will most likely be produced at a new KAMAZ plant in Tatarstan by the largest Russian automobile producer. It is the first time that Italy has signed a major contract with Russia and that the vehicles are produced locally in Russia under the control of a joint venture between

the Italian company Iveco and the Russian counterpart Rostekhnologii. There are concerns by the Italian government about reverse-engineering and the creation of a future competitor. Therefore, the Italian government limited sales of the joint venture only to Russia (Defense Industry Daily, 2013).

Between 2007 and 2011, Germany issued licenses worth €248 million for the export of military equipment to Russia, the second highest figure among EU Member States. In 2011 alone, Germany issued export licenses worth €144 million, accounting for 58 percent of all German arms exports to Russia between 2007 and 2011. While exports of military equipment often fell within category one of the Military List (small arms and light weapons) and mostly included sport pistols and rifles, Germany issued one license under category 14 of the Military List worth €123 million in 2011, which also covers the delivery of an army training center. In late November 2011, the German defense company Rheinmetall announced that it had signed a contract with the Russian Ministry for Defense over the delivery of a major army training center. Based in Mulino, Russia, the simulation-supported training center, which is one of the most advanced in the world, will be able to train up to 30,000 troops per year, mainly reinforced mechanized infantry or armored brigades. The training facilities provide the opportunity to conduct training including military operations in urban terrain (MOUT) and several MOUT villages. According to Rheinmetall, the deal is worth more than €100 million and includes further options (Rheinmetall Defence, 2011). Russian state-owned company JSC Ooboronservis acts as a strategic partner for Rheinmetall in carrying out this project and will run the training center on behalf of the Russian Army. The simulation-supported training center is planned to be operational by 2014. Generally, this deal marks the first major breakthrough of a German defense company on the Russian market and opens the door for follow-on projects, especially since the Russian Defense Ministry is planning to modernize its army by 2020 (Dutch Defence Press, 2012). Rheinmetall's training center will help the Russian Army to prepare well-grounded, deployment-oriented training, providing troops with the best possible training for any possible operation. Technically, this could be an important improvement for Russian ground troops that experienced some tactical and operational shortcomings during the Georgian war in 2008. However, against the background of the Georgian war in 2008 and the ongoing conflict in Chechnya, this deal must be viewed very critically. The deal also raised concern in Poland that deliveries of modern military equipment outside the European Union or NATO might have an

impact on allies' security interests (Jankowski, 2012). Interestingly, the German government recently canceled a joint military exercise with Russian troops due to concern about Poland and the Baltic states. Russian military commanders have announced the exercise as a training to destroy terrorists with helicopters, tanks and fighter jets (Der Spiegel, 2013a).

Russia is increasingly becoming a customer of Western European countries, negotiating bilateral arms deals, thus circumventing NATO and ignoring concerns of NATO partners and EU Member States in Eastern Europe. Besides the recent arms deals, there are additional shopping lists, which include French Thales thermal imager for inclusion into Russian T-90 tanks and German mountaineering gear potentially for troops in Russian's North Caucasus (Socor, 2011). However, it remains to be seen whether EU Member States like France, Germany and Italy become strategic partners of Russia, although its armed forces are in need of Western technology for their modernization efforts. At the same time, there are voices in Russia that push for the purchase from domestic producers rather than the import of Western military equipment. Parts of the Russian military and defense industry oppose the use of Western technologies. Western representatives from the defense industry are skeptical about the potential for future deals with Russia (Kington, 2013).

During the period 2007 to 2011, EU Member States also denied 62 applications for the export of military equipment to Russia (see the respective EU annual reports). Criterion seven was cited 53 times when EU Member States denied a license application for arms exports, whereas Criterion four—which relates to the preservation of regional peace, security and stability—was cited seven times; and Criterion two—which relates to the respect of human rights in the country of final destination—was cited eight times. Criterion five—which relates to the national security of the exporting state and its friends and allies—was cited four times. Interestingly, Criterion eight—which often refers to sustainable development—was cited once in 2007 for the denial of a license under category 15 of the Military List (imaging and countermeasure equipment). Limitations in reporting make it impossible to elaborate which EU Member States issued the denials. National reports, for example from Germany, do provide additional information.

The data of the EU annual reports also reveal a differing interpretation of the Criteria of the EU Common Position, which indicates that there is a lack of harmonization in EU exports to Russia. For example, in 2007, EU Member States issued licenses worth €21.8 million for the export of small arms and light weapons (category one on the Military List), of which €16 million

were issued by Germany. In the same year, EU Member States denied two licenses with reference to Criterion seven of the EU Common Position. In 2009, EU Member States granted licenses for the export of imaging and countermeasure equipment worth €39 million, whereas in the same year, EU Member States also denied four export licenses under the same category with reference to Criteria four, five and seven. In 2011, EU Member States issued licenses worth €11 million for the export of ammunition (category three of the Military List) and at the same time, EU Member States issued two denials under the same category referring to Criterion two, the respect for human rights. Harmonization is also constraint by different interpretation of the Criteria by individual EU Member States. In 2011, for example, Germany issued licenses for the export (category one of the Military List) and at the same time denied the export of materials of the same category with reference to Criteria two and seven (German Federal Ministry of Economics and Technology, 2012<sup>11</sup>).

### 3.4.3 North Africa

Countries in North Africa have come under increased political observation by EU Member States in the light of the Arab Spring when some countries, like Libya, Egypt and Tunisia as well as Algeria were highly affected by uprisings and anti-government protests. The circumstances of events during the Arab Spring raised questions about the interpretation of the Criteria of the EU Common Position and the arms export policies of EU Member States. Between 2007 and 2011, EU Member States issued arms export licenses worth €5.4 billion to North African countries with Morocco being the major recipient of military equipment of EU Member States, partly because of a major deal with the Netherlands over the sale of three SIGMA class frigates built by Damen Schelde Naval Shipbuilding (DSNS). In the same period, licenses worth €1.6 billion were granted for the export of military equipment to Algeria, while the value of licenses for arms exports to Libya amounted up to €959 million.

**Libya:** Libya became a recipient of EU Member States' military equipment after the UN and EU arms embargoes were lifted in 2003 and 2004, respectively. Only a few major arms deals have been realized since then, among them the delivery of MILAN anti-tank

missiles from France, 155-mm Palmaria self-propelled howitzers from Italy, surveillance radar dishes from Germany in 2010 and small arms and light weapons exports from FN Herstal in Belgium in 2009. However, there are reported cases in which military equipment has been used in the crackdown of anti-government protest during 2011. The case of Libya shows the difficulties EU Member States have with a common and harmonized interpretation of the Criteria of the EU Common Position (for a detailed assessment of EU Member States' arms exports and the adherence to the Criteria, see Bromley, 2012; Feh1, 2011; Vranckx 2011). The data reveal that the sale of military equipment to Libya fell markedly after anti-government protests and the outbreak of the armed conflict, in which EU Member States actively intervened. This was mainly caused by the United Nation's and the European Union's arms embargos that were imposed on Libya on 26 February 2011 and 28 February 2011, respectively. The case of Libya also demonstrates the general problem of a transparent reporting mechanism. As reported for 2009 in the EU annual arms exports reports, Malta issued licenses for the export of Beretta pistols worth €79 million, which were originally shipped from Italy to Libya. It took months to investigate the case, as the producer Beretta had made a mistake in reporting the volume of the export (the volume amounted to €7.9 million rather than €79 million) to Italian officials who did not inform the Italian Ministry of Defense (Fehl, 2011).

**Algeria:** Although Algeria has a tradition of being a customer of the Russian defense industry, it turned to EU Member States for the supply of military equipment over the past years, opting for a diversification of its sources of armament to modernize its armed forces. Between 2007 and 2011, Italy issued licenses for arms exports worth €1.3 billion to Algeria, the highest figure among EU Member States, followed by Germany that issued licenses worth €472 million and the United Kingdom that issued licenses worth €318 million. All the major European arms exporters had signed contracts with Algeria over the past years. In 2007, the United Kingdom signed a deal worth €402 million with Algeria over the sale of six AW101 Merlin transport helicopters and four Super Lynx-300 naval helicopters, which were delivered between 2010 and 2012 (Jennings and Valpoloni, 2007). The Algerian Navy ordered an additional six Super Lynx helicopters for their Meko A200 class frigates in August 2012 (DefenceWeb, 2012). Only recently did Germany strengthen its military ties with Algeria. In March 2012, Algeria confirmed the purchase of two Meko A200N frigates from Germany, which are planned to be

<sup>11</sup> It is important to note that official figures do not provide a clear understanding of the individual Criterion that has led to a denial of an export in a specific category. The German government only indicates the total number of licenses that have been denied, the Criterion of the EU Common Position that has led to the denial, and the categories of the Military List under which an export was requested.

**Table 10: Value of arms exports licensed by EU Member States to North African States (in millions of euro)**

	2007	2008	2009	2010	2011	Total, 2007–2011
Algeria	177	351	275	933	815	2 551
Libya	109	251	272	344	34	1 009
Morocco	284	347	1 361	411	336	2 738
Tunisia	8	36	53	26	17	140
<b>Total</b>	<b>578</b>	<b>985</b>	<b>1 961</b>	<b>1 714</b>	<b>1 201</b>	<b>6 440</b>

**Source:** Council of the European Union, EU annual reports, <http://eur-lex.europa.eu/en/index.htm>

**Note:** The value of arms exports licensed by EU member states to Libya in 2009 is the officially reported figure. The export of pistols by Malta was reported inaccurately and amounted to €7.9 million instead of the reported €79 million. Thus, the total value of arms exports licensed by EU member states to Libya should amount to €272 million.

delivered from 2017 onwards. The deal is valued at around two billion euro, which in relation is very high for such a deal (NavalToday, 2012). This corresponds with Germany issuing a state indemnity bond of €2.1 billion for the entire deal including the delivery of the frigates, training, spare parts, ammunition and helicopters (Deutscher Bundestag, 2012). Germany has also issued licenses worth €195 million for the export of 54 Fuchs armored personnel carrier (APC) and there are plans to produce up to 1,200 Fuchs APCs in Algeria in the next ten years (Der Spiegel, 2012).

From 2007 to 2011, EU Member States also denied 17 applications to export military equipment to Algeria (see the respective EU annual reports). Criterion three was cited nine times, whereas Criterion two—which relates to respect of human rights in the country of final destination—was cited six times. Criterion seven was cited seven times and was used in all years under review. The data of the EU annual reports also reveal differing interpretation of the Criteria of the EU Common Position. In 2007, for example, Criteria three and seven were used to deny two licenses under category one of the Military List (SALW), while at the same time, Bulgaria issued two licenses falling within the same category worth €7.8 million. In 2011, for example, Criteria six and seven were used to deny a license under category 10 of the Military List (aircraft), while Italy issued 10 licenses worth €56 million falling within the same category. This indicates a lack of harmonization and consistent interpretation of the Criteria of the EU Common Position.

**Morocco:** Between 2007 and 2011, EU Member States issued licenses worth €2.3 billion for arms exports to Morocco.<sup>12</sup> As part of its European Neighbour-

hood Policy, Morocco has become an important partner and as a result of this, EU Member States have increased their security and military ties with Rabat. France is the leading arms exporter from the EU and issued licenses worth €1.4 billion between 2007 and 2011 followed by the Netherlands that issued one license worth €555 million in 2009 for the export of three SIGMA frigates, which were ordered in 2008. Morocco received the first of three frigates in 2011 and the last one in September 2012 (Thales, 2012). It is expected that the French shipbuilder DCNS will deliver the ordered FREMM frigate in 2013, which would significantly boost the financial volume of French arms exports to Morocco (Barreira, 2012b). In 2010, Morocco approached France to upgrade and to modernize its ageing fleet of 27 Mirage F1 spending up to US \$420 million (Arabian Aerospace, 2010). Between 2007 and 2011, Italy issued licenses worth €179 million, the fourth highest figure among EU Member States. This included the delivery of three naval guns, which were handed over between 2011 and 2012 as well as four C-27J transport aircraft worth €130 million, which were exported between 2010 and 2011 (AEFJN, 2010).

The case of Morocco again illustrates the different interpretation of the Criteria of the EU Common Position indicating difficulties in harmonizing EU Member States' arms export policies. Between 2007 and 2011, EU Member States denied four licenses for the export of military equipment to Morocco mainly citing Criteria two, three and four as reasons for the denial. However, while in 2009 a license for the export of 'bombs, torpedoes rockets, missiles, other explosive devices and charges' was denied on the basis of Criterion four—which relates to the preservation of regional peace, security and stability—France issued 13 licenses worth €62 million in the same category.

<sup>12</sup> Note that the value of arms exports to Morocco between 2007 and 2011 could be higher since Spain reported only the number of issued licenses and not the value of arms export licenses for 2008 and 2010.

#### 4 The European defense industry in times of austerity: Are arms exports a solution?

Defense production has been excluded from the European market since the establishment of the European Union—a decision based on Article 346 of today's European Union Treaty. It provides the legal justification for the ongoing national control over arms exports and has led to fragmented and protracted national defense markets outside the normal rules of a single market. For decades, there have been efforts to harmonize the procurement rules for defense products and to establish a more competitive environment. The European defense industry has undergone major structural changes over the past three decades and faces a number of challenges to adapt to a new environment dominated by changes in modern warfare and the demand by armed forces, as well as by austerity measures in the course of the financial and economic crisis. Today, the restructuring of the European defense industry is underway.

In contrast to many other economic sectors, the defense industry has only seen a partial Europeanization, since it remains largely under national control. This is surprising since the European defense industry is more and more embedded in a globalized world that includes the international arms trade and defense production networks and decision-making within the European Union is often outside the influence of either governments or European institutions. European states developed their own domestic defense industries and left defense production under purely national control. As a study indicates, this structure of governance over arms production and exports is caused by differ-

ences among EU Member States over their preferred structure and regime. This governance structure and “partial Europeanization of arms production has major implications for arms exports” (Brzoska, 2010: 221). Surprisingly, even the financial crisis has not led to more coordination among EU and NATO partners in terms of cutting military spending. What is more, European countries adhere to national prerogatives and have sidelined NATO and the European Union (Mölling, 2012).

Although recent discussions among Member States and in the European Commission have indicated potential changes, it remains unlikely that national capitals will transfer full competencies to Brussels. “Defence remains the most ‘national’ of all policy areas, in the sense that the EU’s Member States are very reluctant to give up sovereignty to international organisations” (Aalto et al., 2008: 6). Recent statements by Spanish Defense Minister Pedro Morenés underline the difficulties Europe is facing when it comes to building a true European defense industry. He highlighted the need to maintain a strong Spanish defense industry that is “a strong industry, one that is not fragmented and that is not open to being ‘boarded’ by non-Spanish interests” (Ing, 2013). Shielding the national defense industry and helping the industry through difficult times seem to be Spanish interests most likely at the expense of a further Europeanization. In contrast to these statements, Italian Defense Minister Mario Mauro recently called for more defense cooperation, including joint procurement. He was quoted, saying that “the sovereignty of Member States is extremely serious and cannot be overlooked overnight. But we need a change of national policy to lead away from national priorities” (Hale, 2013).

**Table 11: Largest EU defense companies in 2011**  
(turnover in US \$ billion)

Company	Rank in Europe	Global Rank	Turnover
BAE Systems	1	3	29.1
EADS	2	7	16.3
Finmeccanica	3	8	14.5
Thales	4	11	9.4
Safran	5	15	5.2
Rolls-Royce	6	17	4.6
DCNS	7	22	3.6
Saab	8	25	3.1
Rheinmetall	9	26	3.0
Babcock International Group	10	30	2.8

**Source:** Stockholm International Peace Research Institute (SIPRI), <http://www.sipri.org/research/armaments/production/Top100>

Today, the European Union is facing a situation in which most states are trying to maintain and run a maximum of defense production capacities and where weapons and equipment are mostly procured from national defense firms. This worked for the past decades, yet resulted in costly duplications and overcapacities. Obviously, the defense companies can compensate the loss due to shrinking defense budgets by expanding their exports to third countries, though it is unclear to what extent the exports can increase because of increasing competition on the global market and political pressure in many European countries.

As Table 11 indicates, EU defense companies are well positioned in the global market and still are doing well, despite the pressure by the cuts due to public debt and the consolidation of state finances.

#### **4.1 From a defense market to a security market**

Since the end of the Cold War, there has been a gradual change of the security environment within and outside of Europe. It is no longer influenced by large-scale aggression against any Member State but rather dominated by, among others, transnational terrorism, failed states, migration and climate change. Whereas these new threat scenarios require new weapon technologies for new forms of military operations, the procurement and development of these weapons is still very slow. This process is also hampered by funds that are allocated or bound by the production of weapon systems that had been developed during the Cold War. The level of military spending is often considered too low in Europe, although the appropriate level of defense spending is often an element of a general debate. The current necessities of reducing the overall debt of EU Member States offer the opportunity to strategically assess both future threats, the instruments needed to address such threats, and the role the military plays in this theater. This could lead to a more appropriate level of military spending. Meanwhile, Europe is slowly moving towards "pooling and sharing" and "smart defense", yet the question of what capabilities European armed forces should have is still open and will influence the change of the European defense market to a general security market (Perlo-Freeman, 2012). In support, the EU Commission tries to enhance the research and development capacities of defense companies as part of a wider innovation strategy.

While Europe's defense industry is looking towards emerging defense markets to compensate for some of the losses, European defense companies are also entering dynamic business segments such as elec-

tronics, security, space and civil aviation. Despite the fact that high research and innovation costs go along with entering the security market, traditional defense firms are taking tentative steps towards entering the security market, especially in the field of surveillance technology. Defense companies seem open to acquire companies specializing in civilian security areas or are willing to apply defense technologies to the needs of internal security (Mawdsley, 2011).

#### **4.2 Focusing on arms exports: The European defense industry turns to new markets**

Pressure by the defense industry to ease export restrictions might increase in the future. The financial crisis has put national defense budgets under enormous pressure and has led to sharp declines in military spending among EU and NATO Member States. A study concluded that "defense capabilities in numerous countries have been significantly affected by the economic crisis. Initially many governments attempting to secure savings sought to eliminate some of their outdated military equipment which had been conceived in the Cold War" (Mölling, 2012: 7). The major arms producers in Europe are therefore planning to scale back major procurement and modernizations programs. Among these are, for example, the F-35 Joint Strike Fighter aircraft and the A400M military transport plane, of which Germany already planned to re-sell 13 of its planned 53 aircraft. The number of NH90 helicopters, another big ticket item, bought by Germany will be reduced from a planned 80 to 57, and France is also considering the reduction of the agreed numbers. Military engagements of some European countries in Afghanistan and Iraq have increased EU countries' military budgets over the past years especially that of the United Kingdom, yet military spending will most likely decrease or at least remain unchanged over the coming years. Cuts or a postponement of some €5.5 billion in new equipment orders in the United Kingdom will likely affect the national and European defense industry. Thus, the future of the European defense industry is anything but rosy.

Additionally, increased efforts by US defense companies to enter the European market and compete with European defense firms at their traditional export markets will increase the difficulties companies are currently facing. Germany, for example, recently decided to acquire up to 176 Type "Eagle V" armored vehicles from the US company General Dynamics worth €110 million, rather than buying the locally produced armored multipurpose vehicle by the German companies Krauss-Maffei-



Wegmann and Rheinmetall because of the lower price for the US model (Der Spiegel, 2013b). Particularly the competition on markets in emerging economies, like India, is likely to increase in the future. The size of the US defense industry and its innovation potential is a competitive advantage over European defense firms. In contrast to many European defense companies, the US firms rely on political support by the administration (Brzoska, 2013).

Table 12 shows that since 2008, government spending among NATO countries has decreased or has only marginally increased (2010). However, in absolute terms, spending on equipment among all NATO countries has fallen by US \$8 billion since 2008; from US \$252 billion to US \$244 billion in 2011. In contrast, equipment expenditure among European NATO Member States increased between 2007 and 2009 to US \$58 billion. Yet, in 2010 and 2011 expenditure decreased by 2.3 percent and 11.6 percent respectively among European NATO members. In 2012, spending on equipment fell by US \$6 billion compared to 2009. Countries hit by the financial and economic crisis have reduced their spending quite substantially, among them also big spenders like France, Germany, the United Kingdom and the United States. Countries that receive financial support through the €rescue fund in particular have cut their spending on equipment, first and foremost Greece and Portugal with a 71.8 percent and 39.9 percent decrease between 2010 and 2011 respectively. The same applies to Italy and Spain who substantially cut their military budgets. In the case of Italy, however, it is uncertain whether this affects military procurement, while in the case of Spain, the government is still struggling to repay its debts to arms suppliers for major acquisition programs in the past decade (Perlo-Freeman, 2012). Nevertheless, already there are signs that some countries, mainly France, will put a hold on the shrinking defense budget. President Hollande recently announced that the defense budget will remain at €31 billion annually over the next five years and thus will be shielded from the general cuts to the government budget to reduce public debt (Withington and de Larrinaga, 2013). The United Kingdom is also confronted with cuts in the defense budgets and it seems likely that the national defense industry is severely affected by these savings. Particularly, the country's land defense-industrial sector is hit hard by the withdrawal from Afghanistan, the general reduction of the army and the austerity measures among EU Member States (IISS, 2013). Generally, besides the reduction of budgets in major NATO countries, budgets for procurement of equipment among smaller NATO countries, like the Netherlands and Poland are also decreasing. On the

contrary, other studies conclude that saving on military spending was mainly at the expense of military personnel, as spending on arms procurement slightly increased between 2006 and 2010. Thus, while there is a general decrease in the defense budget in most countries, military procurement and expenditure on research and development (R&D) have not suffered from the cuts in the defense budgets (Slijper, 2013).

The overall reduction in defense budgets will most likely have a negative effect on the European defense industry as the procurement of new equipment is either delayed or canceled. However, the budget pressure on EU Member States' defense industry and the armed forces differ from country to country, with the biggest effects among small- and medium-sized countries and less impact among the bigger EU Member States as they seem to have more room to maneuver. In terms of procurement, it seems that cuts in most countries are more moderate than expected, except for a few that suffer heavily from the financial crisis as shown above (Mölling and Brune, 2011). Beside this expected reallocation of defense expenditure there is a continuous uncertainty about the shape and structure of European defense that influences the future planning of defense companies. Current procurement programs are too small for defense companies to be operating at full capacity. This situation will become even more critical under the current cuts in the defense budgets (Wulf, 2011). As a result of these factors, European defense companies are pushing towards markets outside the European Union. Yet they will most likely not enjoy the national advantages and therefore need to increase their competitiveness (Secades, 2011). Besides others, UK defense firms have already successfully entered the market outside Europe, when BAE Systems won its first major naval contract in Brazil, supplying the country with Ocean Patrol vessels. The £133 million deal includes handing over design and manufacturing instructions for the vessels, allowing the Brazilians to locally produce some of them (Financial Times, 2012). The United Kingdom continues its efforts to enhance defense cooperation with Asian countries, which underlines the general attempt of UK defense firms to strengthen cooperation and foster partnership with overseas firms to access markets outside the European Union.

In any case, the export of arms or defense material has compensated the loss on the individual national markets due to shrinking defense budgets in Europe and the United States. The rise of military spending and large military modernization programs in Latin America, the Middle East and Asia has certainly helped the defense companies in difficult

**Table 12: NATO defense expenditure on equipment, 2007 to 2011**

(Figures are in US \$ million at 2010 prices;

figures in italics show the percentage change compared to the previous year.)

		<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
Albania	Equipment			20	29	25
	Change				49.3	-15.1
Belgium	Equipment	254	468	446	354	324
	Change		84.0	-4.6	-20.7	-8.4
Bulgaria	Equipment	270	236	125	127	44
	Change		-12.6	-46.9	1.7	-65.7
Canada	Equipment	2 942	2 766	2 809	2 990	3 937
	Change		-6.0	1.6	6.5	31.7
Croatia	Equipment		0	98	73	110
	Change				-25.8	51.0
Czech Rep.	Equipment	1 865	2 304	4 477	2 080	1 853
	Change		23.6	94.3	-53.5	-10.9
Denmark	Equipment	678	843	417	633	406
	Change		24.4	-50.5	51.7	-35.9
Estonia	Equipment	96	40	62	39	2
	Change		-58.2	53.6	-36.3	-94.2
France	Equipment	13 259	12 715	14 108	15 567	13 944
	Change		-4.1	11.0	10.3	-10.4
Germany	Equipment	6 212	7 476	7 992	8 075	7 280
	Change		20.3	6.9	1.0	-9.8
Greece	Equipment	913	1 575	2 796	1 436	405
	Change		72.4	77.6	-48.6	-71.8
Hungary	Equipment	218	251	189	162	166
	Change		15.5	-24.8	-14.5	2.8
Italy	Equipment	4 081	3 867	3 243	3 098	3 247
	Change		-5.2	-16.1	-4.5	4.8
Latvia	Equipment	48	74	16	39	28
	Change		53.0	-78.3	143.1	-27.6
Lithuania	Equipment	95	82	62	32	32
	Change		-14.1	-23.9	-48.1	-0.4
Luxembourg	Equipment	20	49	34	85	72
	Change		147.7	-31.2	148.0	-14.5
Netherlands	Equipment	2 192	1 955	2 038	1 747	1 422
	Change		-10.8	4.3	-14.3	-18.6
Norway	Equipment	1 343	1 426	1 286	1 194	1 142
	Change		6.2	-9.8	-7.2	-4.3
Poland	Equipment	1 472	958	1 255	1 532	1 346
	Change		-34.9	31.1	22.1	-12.2
Portugal	Equipment	275	452	312	482	290
	Change		64.2	-31.0	54.6	-39.9
Romania	Equipment	337	467	207	193	170
	Change		38.4	-55.7	-6.8	-11.8

		2007	2008	2009	2010	2011
Slovak Rep.	Equipment	210	195	170	111	69
	Change		-7.1	-13.0	-34.8	-37.9
Slovenia	Equipment	78	57	65	138	35
	Change		-27.5	15.7	110.8	-74.5
Spain	Equipment	3 539	3 651	2 845	1 770	859
	Change		3.1	-22.1	-37.8	-51.4
Turkey	Equipment	3 102	4 092	3 517	3 716	4 205
	Change		31.9	-14.0	5.7	13.2
UK	Equipment	13 166	13 640	13 081	14 804	14 977
	Change		3.6	-4.1	13.2	1.2
USA	Equipment	151 651	192 914	185 544	190 171	188 040
	Change		27.2	-3.8	2.5	-1.1
<b>NATO Europe</b>	Equipment	53 724	56 871	58 863	57 516	52 455
	Change	15.9	5.9	3.5	-2.3	-8.8
<b>NATO total</b>	Equipment	208 317	252 551	247 216	250 677	244 432
	Change	18.2	21.2	-2.1	1.4	-2.5

**Source:** NATO. 2012. Financial and Economic Data Relating to NATO Defence, Press Release (2012) 047-REV1, 13 April 2012,

[http://www.nato.int/nato\\_static/assets/pdf/pdf\\_2012\\_04/20120413\\_PR\\_CP\\_2012\\_047\\_rev1.pdf](http://www.nato.int/nato_static/assets/pdf/pdf_2012_04/20120413_PR_CP_2012_047_rev1.pdf).

**Notes:** The figures were calculated on the basis of NATO statistics on the distribution of total defense expenditure by category. Figures for the United Kingdom should be treated with caution since the government did not provide data on the shares for personnel and equipment expenditure for 2011. The shares were calculated on the basis of the average share between 2007 and 2010.

times and helped the companies to at least uphold or even increase their annual turnover. Success on these markets will be a decisive factor for a number of European defense companies to avoid a downturn in sales. Financial risks on these markets will grow over the next years, companies are seeking the political support of their governments and the pressure to transfer technology as well as the need for more package deals will mount. However, the importance of intra-EU trade in military goods will remain high over the next years; although this will most likely be trade in components specifically designed for the use in weapon systems and other military-related components rather than complete weapon systems. As Table 13 indicates, intra-EU trade in 2011 reached the same level as in 2007 with 39 percent of all EU arms exports being transferred to another EU Member State after a fall to 24 percent in 2009. In absolute figures, the intra-EU trade increased from €10.7 billion to euro14.5 billion between 2007 and 2011. Nevertheless, the importance of intra-EU trade differs among EU Member States with some states fluctuating from year to year. Germany, France, the Netherlands, and

Italy consistently export a big share of all their arms exports to EU Member States. For others, like Spain, the importance of EU Member States as customers for their defense material has sharply increased over the past years from nine percent in 2007 to 49 percent in 2011. In contrast, Sweden's share of arms exports to EU Member States has dropped sharply from 55 percent in 2007 to 18 percent in 2011.

The European defense industry is definitely under pressure due to the financial cuts in national defense budgets. The crisis might offer an opportunity to reverse the current practice of focusing on national interest and to create a real European defense market. In any case, further privatization and internationalization paired with a stronger export orientation of the defense industry might weaken political control of individual countries. To avoid this, what is needed above all is maximum transparency (cf. Wulf, 2011), especially when companies increase their internationalization efforts, which includes the relocation of production facilities and the licenses production to a recipient country. The EU Commission and its DG Enterprise and Industry will issue a joint detailed policy

**Table 13: The importance of arms exports to EU MS and all destinations 2007, 2009 and 2011**  
(in millions of euro)

	2007			2009			2012		
	EU MS <sup>a</sup> (1)	Total <sup>b</sup> (2)	(1)/(2)*	EU MS <sup>a</sup> (1)	Total <sup>b</sup> (2)	(1)/(2)*	EU MS <sup>a</sup> (1)	Total <sup>b</sup> (2)	(1)/(2)*
Austria	1 100	1 379	80	976	2 249	43		1 632	45
Belgium	237	900	26	372	1 102	34	238	834	29
Bulgaria	12	378	3	9	315	3	15	223	7
Czech Rep.	122	478	26	155	390	40	159	346	46
Denmark	97	196	49	130	252	52	99	237	42
Finland	37	56	66	75	187	40	43	183	23
France	3 144	9 849	32	3 751	12 678	30	2 676	9 991	27
Germany	1 297	3 668	35	1 445	5 043	29	1 954	5 414	36
Greece	21	33	64	118	227	52	105	226	46
Hungary	46	96	48	51	127	40	57	156	37
Ireland	23	33	70	31	45	69	10	27	37
Italy	3 261	4 744	69	3 757	6 692	56	2 856	5 262	54
Netherlands	397	874	45	269	1 315	20	162	416	39
Poland	3	287	1	26	1 319	2	51	849	6
Spain	184	1 962	9	1 048	3 193	33	1 419	2 871	49
Sweden	396	717	55	409	1 097	37	216	1 189	18
UK	241	1 312	18	688	3 462	20	3 636	7 002	52
<b>Total</b>	<b>10 661</b>	<b>27 100</b>	<b>39</b>	<b>9 629</b>	<b>40 302</b>	<b>24</b>	<b>14 495</b>	<b>37 525</b>	<b>39</b>

**Source:** Council of the European Union, EU annual reports, <http://eur-lex.europa.eu/en/index.htm>

**Note:** Data is taken from the EU annual reports and represent the value of licenses each EU member state has issued for the respective year.

<sup>a</sup> Arms exports to EU member states

<sup>b</sup> Arms exports to all destinations

\* in percentage

statement in June 2013 identifying key issues the European Union could support in favor of the industry and to strengthen the EU defense-industrial base. These efforts also include assessing the European Union's role in supporting EU defense companies when entering the US market to increase their exports. Building a common approach to defense policy seems to be the favored way by the EU Commission, though the focus will be on a common and good interpretation of Article 346, which grants EU Member States sovereignty in defense industry and export related issues, as well as increased efforts in pooling and sharing. However, Article 346 currently prevents the strengthening of the European Security and Defense Policy (ESDP). A cancellation of the exception Article 346 would eliminate a general obstacle on the way to a improved ESDP, yet, this would requires a new institutional framework for arms export control.

## 5 Conclusion

As the data reveal, interpretation of the Criteria of the EU Common Position still differs among EU Member States, and exports of military equipment continue to countries, which are problematic due to a critical human rights situation or the danger of an internal conflict. Countries in the Middle East are still particularly important customers for the European defense companies although the human rights situation in these countries is precarious. Yet it is also important to avoid military equipment being exported to countries in conflict, unstable regions or to countries in which human rights are under threat.

Nonetheless, many things have been achieved in strengthening European arms export control since the introduction of the EU Code of Conduct in 1998 and its successor, the EU Common Position in 2008. Yet, a number of challenges remain to plug the loopholes and to increase harmonization and push towards a

consistent implementation of the EU Common Position as well as a coherent interpretation of its Criteria. The review of the EU Common Position, which started in late 2011 and is still under way, offers opportunities to address a few of the urgent issues to overcome the shortcomings of the current export control system. This is especially important as no major review of the EU Common Position has taken place since 2008, or even since 1998. Surprisingly, it seems that EU Member States will not use this opportunity to generally assess the level of harmonization or convergence on the EU level or draw the attention to issues like transparency. So far, the process has been conducted as a close shop and NGOs have not been involved. This opaque process has limited the potential for a major change in the EU arms export control system. Harmonization and better coordination, the original goal of the EU Code of Conduct, remains vitally important, especially since the directive for intra-community trade has liberalized arms exports on the EU level and potentially eases the export to third countries. Additionally, the economic and financial crises in Europe have led defense companies to rethink their strategies and orientate more towards external markets. Countries in Asia, Latin America and the Middle East have become major recipients of military equipment and thus important customers of European defense companies. However, a more coordinated and convergent EU arms export control system should strengthen a restrictive arms export policy on the EU level.

Looking at the case studies and the licenses granted and denied, it is obvious that harmonization on the European level is still lacking. EU Member States continue to grant licenses for the export of military equipment and at the same time deny export licenses to the same country, sometimes even the very same equipment. However, due to the lack of disaggregated data that show which country has denied licenses according to which Criterion of the EU Common Position, it remains impossible to make a full and detailed assessment. Since the number of EU Member States that have made full submissions to the European Union has fallen over the past years, such a detailed assessment is even more complicated.

Additionally, the economic and financial crisis and the parallel austerity measures that have led to shrinking defense budgets put pressure on the European defense industry to conquer markets outside Europe to compensate the losses on the national defense markets. While it seems that defense companies are becoming more successful in finding new customers on defense and security markets outside Europe, the need to develop a coherent EU consolidation reform for the defense industry remains. Still,

the European defense market remains vitally important for most of the companies. Such consolidation needs political guidance to overcome national preferences and to create a true European defense market. However, in the long run, the European Union, Member States, the defense industry, academics as well as member from civil society need to elaborate concepts for defense conversion and to downsize production capacities. The same applies to defense policy planning. The creation of common standards for arms exports is also in the interest of the European defense industry.

## 6 Recommendations

**Reporting and Transparency:** There continue to be problems with the reporting on arms exports on the EU level as well as in the national context. Few countries reported on both licenses and actual deliveries while several countries failed to make a full submission in the recent reports, among them the major EU arms exporter France, Germany, Italy and the United Kingdom. Information on licenses is important, although it does not show whether the licensed items have actually been exported or not. Transparency and information on the EU Member States' data collection methodology at the EU level as well as at the national level is essential to understanding how the Criteria are implemented and what the decision-making process is when issuing a license or denial. To make a full assessment of EU Member States' arms exports and their policies, the EU report would need to include more detailed information on the actual exports, such as the number of items exported, the end-user, as well as a breakdown of denials by recipient and Criterion applied. Generally, EU Member States do not provide comparable data with which the actual practice of arms exports can be assessed. Germany, for example, only provides data on individual licenses and excludes collective licenses (which in 2011 were almost of the same volume as individual licenses). Other countries, like the United Kingdom, make use of Open General Export Licenses<sup>13</sup>, which prohibits making a full assessment of UK arms exports.

Seen as the reporting practice in Member States is so different (some countries in Europe, like the Netherlands or the United Kingdom, provide regular information on a monthly or quarterly basis to their parliaments, in Germany there is a strong debate about changing the reporting system to a more

<sup>13</sup> Open General Export Licenses are pre-published export licenses that are designed to license controlled military equipment that is less restricted.

timely reporting mechanism—probably a quarterly reporting system), a bi-annual publication of the EU report on arms export would increase transparency. National parliaments should demand their governments to provide information on arms exports on a more regular basis—either quarterly publications or a monthly updated database would be an option.

The implementation of the ICT directive is being criticized for leading to a loss of transparency. While it remains to be seen whether the ICT directive will have a negative impact on reporting transfers, the lack of prescriptions in the directive about how states should report to their national parliaments at least offers the potential for less transparency. There are currently only 13 certified companies in Europe, in six countries, that can make use of General Licenses and although there are just a limited number of General Licenses, it is unclear to what extent this will have an effect on the volume of military equipment transfers. At least in the German case, it seems that transfers under General Licenses will be reported to government authorities twice a year and will be compiled in the annual arms export report, although this remains to be seen.<sup>14</sup>

The national parliaments need to ensure that a timely publication of data is secured and that the same level of information is provided, even if this means adopting new legislation. National parliaments need to be able to hold their governments accountable; however, to do this they need timely and complete information. Timely and detailed reporting must include details of the exported good as well as of the total volume and the final destination to strengthen the control over re-export to non-EU countries of previously internally traded military equipment.

The recently agreed Arms Trade Treaty (ATT) at the UN General Assembly for the first time establishes an international framework for the control of arms transfers. The ATT asks states to regularly report on their arms transfers. The European Union should work towards a binding mechanism within which states regularly report to the UN Register on Conventional Arms as the recent practice of voluntary reporting is disappointing. Although the standards at the EU level and within each Member State go well beyond the agreed minimum in the ATT, it is vitally important that the European Union support the fragile consensus and prevent the internal erosion of the ATT.

**Post-Embargo Toolbox/ Black List:** In 2004, the EU Council discussed the idea of introducing a new instrument to the EU Code of Conduct to assess arms

exports to post-embargo countries. While the introduction of such an instrument was not successful in the end, discussion about this instrument started again in the wake of the Libyan crisis in 2011. It was planned to pay special attention to countries where an embargo had recently been lifted and that EU Member States should regularly hold consultations on national arms export policies towards post embargo countries. Such consultations, which go beyond the existing consultation mechanism on denials, offer the opportunity to carefully assess if any of the Criteria of the EU Common Position is of particular relevance to the decisions of EU Member States. EU Member States should consider introducing such an instrument, as it would offer the opportunity to regularly exchange information on a three-monthly basis not just on denials, but also the issued licenses, the goods as well as the category of the EU Common Military List, the total number of items and the end-user. This would create a better understanding of the Criteria's interpretation among EU Member States when assessing a license application. Up to now, EU Member States only obtain information on licenses and exports through the EU annual report once it is published. Generally, EU Member States should also consider the idea to expand such an instrument to all third countries (see also Bromley, 2012).

Thought should be given to the idea of introducing a list of recipient countries whose correspondence to the Criteria of the EU Common Position should be reviewed, for example, with respect to the human rights situation, or the level of internal or regional conflicts. EU Member States should pay special attention to such countries when assessing a license application. To introduce a general 'black list' of such countries, which assists EU Member States in their assessment of any license application is worth discussing. The current case-by-case approach when issuing arms export licenses allows governments to ignore the general picture in the recipient country with regard, for example, to the human rights record of a country or the wider governance situation. Any license application to countries of concern needs timely and extensive consultation among EU Member States prior to the export as well as a clear and extensive justification of the respective EU Member State. There is the danger that national prerogatives and security policy interests could seriously undermine such efforts. Such a list would require much more coordination and harmonization among EU Member States' arms export policies. It remains to be discussed what effects such a list could have on diplomatic relations as well as on foreign and security policy.

<sup>14</sup> Interview with government official, 23 April 2013.

**Harmonization and coherent interpretation of the Criteria of the EU Common Position:** Different implementation of the EU Common Position into national law, and diverging interpretation of the Criteria impede a better harmonization at the European level. However, a detailed assessment of the implementation and application of the EU Common Position Criteria as well as the EU user's guide is lacking. Since EU Member States continue to apply the Criteria differently, an assessment would be necessary to generally review whether the EU Common Position has led to a more coherent arms export policy on the EU level that takes issues like peace, security and human rights into account. The current review of the EU Common Position and the specific focus on Criteria seven and eight offers the opportunity to carefully assess the usefulness of the EU user's guide. Whereas it seems that the EU user's guide might be a useful instrument in the decision-making process, there is no evaluation of its practicability and its effects on harmonization.

EU Member States should consider a peer review mechanism with which the implementation on the national level can be assessed. COARM could be given the mandate to assess the implementation of the EU Common Position.

Consideration should also be given to a revised risk assessment mechanism in which EU Member States improve the exchange of information when assessing the Criteria prior to licensing any arms export. There continues to be an incoherent and inconsistent interpretation of the Criteria of the EU Common Position. Apparently, EU Member States seem to have learned little from the uprisings in the Middle East and North Africa and continue to prioritize security interests in this region.

**The role of the EU Commission and the institutional setup:** Article 346 of the EU Treaty still grants the EU Member States sovereignty of defense production and arms exports. However, an abolishment of this Article and the creation of a single market raise the questions of the institutional framework for the control over defense production and the interplay between EU Member States and the EU Commission. In terms of arms exports, the European External Action Service (EEAS) might play a stronger role, yet, again it remains to be discussed how the EEAS interacts with the EU Member States. Regarding the institutional framework, it is important to discuss whether arms exports should be part of the EU's Common Commercial Policy like the export of dual-use items or should be considered under the CFSP. The EU Commission, the European and national Parliaments as well as the EU Member

States need to ensure that arms exported are not treated like any other area of trade or business.

**Role of the European and national Parliaments:** Despite the limited opportunities of the European Parliament to engage with EU Member States' arms exports, it should continue to raise questions about individual arms transfers to obtain more information. The current engagement of the Committee on Foreign Affairs of the European Parliament indicates the general interest it has in the EU Common Position. In February 2013, the Committee initiated the discussion about the implementation the EU Common Position and drafted a report assessing the EU Common Position and providing ideas for an improvement.<sup>15</sup>

However, by rejecting the report in the Committee on Foreign Affairs, the European Parliament missed an opportunity to support the ongoing review process of the EU Common Position and feeding in own ideas into the process. The Committee on Foreign Affairs of the European Parliament should continue to demand that the EU Member States complement the EU Common Position "by a regularly updated, publicly accessible list, with detailed reasons, providing information on the extent to which exports to particular recipient countries are, or are not, in keeping with the eight Criteria" (European Parliament, 2012). More generally, the European Parliament should raise the importance of and push for a stronger adherence to the ethical guidelines of the Criteria of the EU Common Position.

From the outset of the EU Code of Conduct and introduction of the EU Common Position, the European Parliament was a driving force in promoting transparency and public reporting of arms exports. It should push EU Member States for a timelier reporting, considering that the EU annual reports for 2010 and 2011 were only published in late December 2011 and November 2012, respectively. Members of the European Parliament in conjunction with its counterparts in the national parliaments could give an important impulse to commit EU Member States to make full submissions to the EU annual report. German reporting on collective licenses issued for arms exports to third countries (which have increased quite substantially over the past years), for example, neither takes place on the national nor on the EU level. Additionally, the EU annual report should also include information on the quantity of transferred military equipment as well as the end-user.

<sup>15</sup> See draft report: European Parliament, Committee on Foreign Affairs, Draft Report on the implementation of Council Common Position 2008/944/CFSP, 2012/2303(INI).

In the past, the European Parliament assessed the EU annual reports and made recommendations for better implementation and transparency.<sup>16</sup> The dialogue between the European Parliament and the Council seems to have been in limbo over the past year. Notwithstanding this, the European Parliament should resume publishing its assessments of the implementation of the EU Common Position and provide ideas on how to increase harmonization and improve implementation. The European Parliament should enhance the dialogue with COARM. Regular assessments of the implementation of EU Member States arms transfers practices could be carried out by specific committees, like the Subcommittee on Security and Defense, or could be commissioned to external institutes.

The European Parliament should engage in a broader discussion on how the EU Common Position and specifically EU Member States' arms exports interact with other areas of EU activity, within and outside arms exports policy. While Criterion eight, which considers the compatibility of the export with a country's technical and economic development, was at the center of the latest review of the EU Common Position, the European Parliament should assess whether EU Member States' arms exports undermine the efforts of EU development policy. Especially, the European human rights policy offers potential for the European Parliament to engage more in this policy field and assess the effects arms exports have on this policy area.

The European Parliament could stimulate a general discussion juxtaposing the importance of the Criteria of the EU Common Position with the security interests of EU Member States, although the latter are contested and not yet specified. Yet, the European Parliament should consider a stronger EU Member State's obligation to publicly justify their decisions with regard to the Criteria of the EU Common Position when issuing an export license. Joint and regular consultation with the national parliaments of each EU Member State would stimulate the opportunity to demand a public justification of governments.

Besides that, the European Parliament should foster closer exchange and consultation with national parliaments to strengthen their role in scrutinizing their governments. Experience in some EU Member States, like Sweden and the United Kingdom, are of value in

exchanging experience among national parliaments. The European Parliament could act as a facilitator. There are a number of issues where national parliaments should engage in a broad discussion on how to improve their control mechanisms. On the one hand, transparency and reporting is still a problem in some EU Member States. National parliaments should demand a timelier, more regular and complete report from their governments. Procedures like those in the United Kingdom, where the government provides detailed case studies and by that opens the curtain on the secret decision-making process could find the way into more national reports and should be demanded by the national parliaments. Additionally, national parliaments should consider introducing improved information mechanisms, which allow ex-ante control. The Dutch parliament, for example, receives prior confidential notice on the export of surplus weapons.

Article 17 of the ICT Directive states that it shall be reviewed by 30 June 2016, four years after its final implementation. The EU Commission will report to the EU Parliament and the Council on the implementation and to what extent the objectives of the Directive have been achieved. The EU Parliament should request regular annual reports on the mode of operation of the European Directive to ensure a coherent export practice and export control. It should also request the EU Commission to ensure a detailed and timely report of all intra-community transfers under the ICT Directive.

A database on the actual transfers would be an important tool for providing information and would supplement the EU COARM database if it included reliable and comparable information and data. However, this should not be introduced at the expense of the level of reporting in the EU annual report. Besides that, the EU Parliament should engage in discussions about new end-use regulations within the European Union to ensure restrictive arms export policies to non-EU countries.

<sup>16</sup> The European Parliament assessed the seventh and eight EU annual reports. See for details: European Parliament, Committee on Foreign Affairs, Report on the Council's Seventh and Eight Annual Reports According to Operative Provision 8 of the European Union Code of Conduct on Arms Exports (2006/2008(INI)), A6-0439/2006, 30 November 2006.



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