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The need for a greater transparency in the arms trade

Report
Political Affairs Committee
Rapporteur: Mrs Carina Ohlsson, Sweden, Socialist Group

Summary

Despite the progress achieved in tightening up national norms and regulations to control the arms trade and in improving international co-operation in this field, the arms trade remains such a secretive business that it is often impossible to trace the export of weapons and its final users.

The Assembly considers greater transparency in the arms trade as fundamental to ensuring good governance, accountability, prevention of human rights abuses and violent conflicts.

The Assembly calls on Council of Europe member states to ensure the highest possible level of transparency and accountability in the arms trade by taking a number of concrete measures and to promote enhanced international co-operation in the regulation and control of the arms trade.

A. Draft resolution

1. Over the last decade, Council of Europe member states have made progress in tightening up national norms and regulations to control the arms trade and in improving international cooperation in this field. However, the arms trade remains such a secretive business, frequently involving a complex chain of transactions and transfers, delocalised production, and sales through third countries and use of intermediaries, that it is often impossible to understand which weapons have been exported to where and who the final users will be.

2. The Parliamentary Assembly considers greater transparency in the arms trade as fundamental to ensuring good governance, accountability, prevention of human rights abuses and violent conflict and minimising the risk of weapons being diverted into the black market, criminal or terrorist groups or in breach of embargo decisions, thus threatening the political stability and the security of people, in and outside Europe.

3. The introduction of greater transparency would also help ensure that economic considerations are not prioritised over human rights, human security, conflict-prevention and non-proliferation; that governments are held accountable for their political commitments in the field of defence and foreign policy; and that episodes of fraud and corruption in the armament sector are reduced.

4. The Assembly welcomes the progress made at multilateral level to intensify the confidential exchange of information amongst governments as regards the arms trade. It also notes with satisfaction that some Council of Europe member states are parties to a number of such mechanisms, including the Wassenaar Arrangement, the EU Code of Conduct on arms exports and the OSCE information exchange mechanisms on small arms and light weapons.

5. However, the Assembly believes that progress in the confidential exchange of information at governmental level should be matched by enhanced public transparency through the publication by each country of detailed annual reports on arms transfers, the development of regional reporting mechanisms and better use of existing multilateral ones, such as the UN Register of Conventional Arms and the UN COMTRADE database.

6. Above all, the Assembly is convinced that parliamentary scrutiny is the most appropriate instrument to achieve greater transparency and accountability in the arms trade, while preserving the competitiveness of a country's defence industry and respecting the confidentiality of the government's policy of national security. The Assembly therefore regrets that good practices such as prior parliamentary consultation over the issuance of licences in sensitive cases, as well as regular reporting by governments to national parliaments regarding the arms trade, or parliamentary debates on the issue are still rare and limited to a few Council of Europe member states.

7. In this context, the Assembly takes note of the Inter-Parliamentary Union's (IPU) Resolution on the role of parliaments in strengthening control of trafficking in small arms and light weapons and their ammunition, adopted on 12 May 2006, which suggests a series of measures to improve parliamentary involvement in this field.

8. Similarly, the Assembly welcomes the initiative taken, amongst others, by some Council of Europe member states to promote the negotiation, within the United Nations, of a legally-binding Arms Trade Treaty (ATT). In particular, the Assembly welcomes the circulation on 24 July of a draft UN Resolution entitled 'Effective control over the import, export, and transfer of conventional arms,' to be tabled at the First Committee of the UN General Assembly in October 2006, which is intended to set in motion this process.

9. In light of the above, the Assembly calls on Council of Europe member states to:

9.1. ensure the highest possible level of transparency and accountability in the arms trade by:

9.1.1. imposing on governments the obligation to publish comprehensive, detailed and clearly structured information on national arms transfers (including imports, exports, transit and transshipment) to be submitted to parliaments for debate at least once a year;

9.1.2. considering introducing a mechanism of prior parliamentary consultation over the issuance of licences in sensitive cases;

- 9.1.3. implementing appropriate procedures to facilitate enhanced parliamentary scrutiny over the government's activities in the field of the arms trade;
- 9.2. promote enhanced international cooperation in the regulation and control of the arms trade by:
 - 9.2.1. supporting the successful negotiation within the United Nations of an ATT;
 - 9.2.2. complying fully and in a timely manner with the reporting requirements stemming from their participation in the UN Register of Conventional Arms and other multilateral mechanisms to which they are parties;
 - 9.2.3. establishing, together with interested non-European countries, an informal group to examine how best to use the UN Register of Conventional Arms and other multilateral mechanisms to further develop transparency in the arms trade;
 - 9.2.4. developing regional registers on conventional arms transfers, including data on SALW.
10. The Assembly calls on those Council of Europe member states who do not participate in the COMTRADE database, or only provide partial data, to fully adhere to this mechanism at the earliest convenience.
 11. Finally, the Assembly calls on national parliaments to promote the establishment of an international parliamentary network with a view to assisting parliamentarians in increasing the level of domestic transparency in the arms trade through the exchange of information and models of good practice.

B. Explanatory memorandum, by Mrs Ohlsson, Rapporteur

I. Introduction

...legally exported weapons often find their way into the illicit market. The task of effective proliferation control is made far harder than it needs to be because of irresponsible behaviour on the part of some states and lack of capacity by others, together with the shroud of secrecy that veils much of the arms trade. Member States must act to increase transparency in arms transfers if we are to make any progress.

—UN Secretary General Kofi Annan, 2000

1. Over the past 10 years, Council of Europe member states have made progress in tightening up national norms and regulations controlling the arms trade and in improving international cooperation and information exchange. However, arms continue to reach human rights abusers, countries in conflict and regions of instability, with the risk that at some point they may be diverted onto the black market and fall into the hands of terrorists and criminal groups. This threat is even more evident if one considers that in many cases weapons are exported via third countries through networks of middlemen, or produced under licence in a number of different countries, making the task of identifying what has been exported and to whom more difficult.

2. If proscribed or irresponsible users are not short of weapons, this is partly because the arms trade remains largely a secretive business, which allows grey and black market transactions to flourish while concerns about human rights, regional security and sustainable development can be over-ridden by short term commercial interests. So little information is available in some countries about the production and transfer of arms - especially small arms and light weapons (SALW) - that it is often impossible to understand which weapons have been exported to where or who the final users are.

3. Parliaments have potentially a variety of mechanisms to oversee the arms transfer policies and practices of their governments. But the political will for these mechanisms to be effective is often lacking and in most countries members of parliament exert little or no pressure on governments to become more transparent.

4. This paper aims to:

- present the experiences of the Council of Europe member states relating to transparency and government accountability in the arms trade;
- discuss the advantages and disadvantages of greater transparency;
- and suggest a set of actions required to develop and implement fully transparent procedures, including a recommendation on national reporting on arms transfers.

5. I am fully aware that Article 1 d, listing the aims of the Council of Europe, specifically states that *'matters relating to national defence do not fall within the scope of the Council of Europe'*. In this respect, I would like to point out that the present report does not deal with the arms trade from the angle of national defence but from that of good governance, accountability and prevention of human rights abuses and violent conflicts. It does not aim at interfering with member states' right to trade in arms but to make the exercise of this right fully consistent with Council of Europe standards in the field of good governance and human rights. As such, the present work should be considered as a follow-up to previous Assembly texts regarding the sales of arms and human rights as well as others referring to arms exports in the context of conflicts, as in the case of the former Yugoslavia, Iraq, etc.

II. Public transparency vs. information-sharing

6. It is important to avoid confusion between information-sharing, or information-exchange, and public transparency. There has been progress in developing confidential **information-sharing amongst governments** on arms transfers. This has taken place, amongst others, within the framework of:

- the Wassenaar Arrangement,
- the EU Code of Conduct on arms exports, and
- the OSCE information exchange mechanisms on SALW.

7. Information that is exchanged in this way is important because it can contribute to better cooperation between law enforcement agencies and can improve the capacity to prevent diversion to unauthorised users.

But most of these exchanges are confidential to the states parties concerned and, although some mechanisms are becoming more elaborate - especially those within the EU - they are usually quite modest, both in scope and specificity of the information exchanged.

8. **Public transparency** is the provision of official information which governments make available not only to other governments, but also to their own parliaments and citizens. Much of this transparency depends on the production of regular reports, which include information on laws and the procedures used for authorising arms transfers, as well as data that allows parliaments and the public to know what arms are exported and imported, their quantities and types, and who their end-users are. Arms transfers include imports, exports, transit and transshipment activities, including the transfer of know how and technologies which allows for the setting up of production capacity in third countries, for example through licensed production deals. It is on public transparency that this paper wants to concentrate.

III. The legitimate limits of public transparency

9. Opponents of transparency argue that it cannot be total and that there are legitimate reasons for some confidentiality relating to sales and transfers of armaments. Both state and commercial actors widely stress the need to maintain confidentiality on grounds of national security, commercial secrecy, and foreign and military policy. States are motivated by concerns about the national interest and they want to deny important information about potential export opportunities to competitor governments, particularly details of government-to-government defence negotiations. Similarly, companies argue that it is necessary to withhold information that might be useful to their commercial competitors (domestic as well as foreign).

10. The Council of Europe Recommendation Rec(2002)2 of the Committee of Ministers to member states on access to official documents sets out specific rules for legitimate restrictions:

“Member states may limit the right of access to official documents.¹ Limitations should be set down precisely in law, be necessary in a democratic society and be proportionate to the aim of protecting:

- i. national security, defence and international relations;*
- ii. public safety;*
- iii. the prevention, investigation and prosecution of criminal activities;*
- iv. privacy and other legitimate private interests;*
- v. commercial and other economic interests, be they private or public;*
- vi. the equality of parties concerning court proceedings;*
- vii. nature;*
- viii. inspection, control and supervision by public authorities;*
- ix. the economic, monetary and exchange rate policies of the state;*
- x. the confidentiality of deliberations within or between public authorities during the internal preparation of a matter.²*

11. The recommendation also states that *“access to a document may be refused if the disclosure of the information contained in the official document would or would be likely to harm any of the interests mentioned”* above, *“unless there is an overriding public interest in disclosure.”³*

12. This means that withholding government-held information on the arms trade can only be justified for reasons of national security or commercial confidentiality under the following conditions:

- if withholding the information is necessary in a democratic society;
- if it is proportionate to the aim of protecting national security or commercial interests;
- if disclosure would be likely to cause harm to national security or commercial interests;
- if the reasons that are being invoked for withholding the information are precisely set down in law, and
- unless there is an overriding public interest in disclosing the information.

¹ The recommendation defines the term “official documents” as follows: *“all information recorded in any form, drawn up or received and held by public authorities and linked to any public or administrative function, with the exception of documents under preparation”*.

² Council of Europe, Recommendation Rec(2002)2 of the Committee of Ministers to member states on access to official documents (adopted by the Committee of Ministers on 21 February 2002 at the 784th meeting of the Ministers' Deputies).

³ *Ibid.*

13. However, in many cases, states' excessive secrecy with regard to arms trade information falls short of this test and government practice often goes beyond what is necessary in a democratic society. Governments would rarely risk harming their private or public commercial interest when publishing figures on arms production or exports. While this is undoubtedly part of the reason for governments to reject full transparency, another explanation is that government officials – and sometimes politicians – try to conceal information from parliamentarians and the public in order to ensure that they retain total control over the country's policy direction. This explains why governments are sometimes more inclined to share confidential military information with potential adversaries than with their own parliaments and citizens. This analysis suggests that governments are at least as concerned that information about potentially controversial actions could generate public opposition as they are about the possible damage to national security.

14. It should be noted that even if in exceptional cases where it could be argued that the release of public information on the arms trade would undermine a country's private or public interest, it is all the more important to avoid that arms are used to commit human rights violations represents an 'overriding public interest', thus requiring Council of Europe member states to release such information, by the standards set forth in Rec(2002)2.

IV. Why is transparency important?

15. Increased public information on the arms trade can bring many direct and indirect benefits.

16. Transparency in the arms trade represents a key feature of democratic governance and open societies. Parliaments should have access to sufficient information to enable them to exert control over the conduct of government policies. Citizens should also, as far as possible, have access to information that relates to their welfare and their society and allows them to contribute to the development and implementation of sound governmental policies. In this regard, transparency provides a means for parliamentarians and civil society to support government efforts to prevent human rights violations, and promote peace, security and development. Certain countries will always have strong economic incentives to export arms. Therefore, **the introduction of greater transparency would help ensure that governments are held accountable for their political commitments and that economic considerations are not prioritised over human security, the respect of human rights and non-proliferation.**

17. One of the main arguments for transparency is that secretive decision-making often results in bad governance. It is clear that secrecy and corruption have become closely associated with the arms trade. This was never more apparent than in a number of European countries in the late 1980s and early 1990s, leading to scandals such as the 'Arms to Iraq' affair in the UK. Transparency International, an international non-governmental organisation fighting corruption, has published a number of reports providing evidence that the international arms trade is rife with corruption. In 2001, the Vice-President of Transparency International went as far as to say that a very high proportion of small arms deals in the world are the result of bribes.⁴ The illicit trade depends upon the complicity of state officials whose silence is bought with bribes. In the so-called 'grey' trade⁵, arms contracts are often facilitated by the use of 'commissions', which are paid both in developed and under-developed countries. **Transparency in the arms trade would help combat corruption and fraud, just as it does in the financial sector.**

18. **At the state level, transparency promotes confidence-building and compliance with national and international regulatory regimes in a number of ways:**

- it encourages officials and ministers to comply with the letter and spirit of the law;
- it increases the level of accountability of exporting states by encouraging them to make responsible decisions concerning the risk that arms transfers may contribute to human rights violations, or undermine security and development in the importing country;
- it reassures partner governments that the state is complying with regional and international proliferation control regimes.

19. **Transparency can also help to prevent illegal arms circulation.** Reports of the United Nations and regional organisations, as well as analyses by research institutes and NGOs, have documented how secrecy obstructs actions to prevent and combat illicit arms trafficking, not least by impeding efforts to

⁴ Transparency International. [Global Corruption Report 2001](#).

⁵ The Small Arms Survey has offered a definition of 'grey' market as "the illicit but technically legal market, which includes government-sanctioned covert transfers", Small Arms Survey 2001, p. 5.

prevent the diversion of legal arms into the arsenals of criminal and terrorist groups. By establishing a paper trail showing the chain of possession from manufacturer to end-user, governments would be better able to ensure that arms licensed for export or import are not diverted to unauthorised or destabilising purposes - including sanctions breaking activities - or fall onto the black market. Also, where problems do occur, good practice in this area would assist efforts to identify the nature of the infractions and their perpetrators. Crucially, transparency on arms exports would enable effective cooperation amongst police, customs and intelligence agencies and would facilitate the work of such bodies in identifying sources of illegal weapons, particularly as many illicit consignments of arms begin their journey as legal exports.

20. **It has been argued that improving transparency would harm the defence industry.** If this were true, one would expect defence sales from the UK and the US, two of the countries with the most developed (though not perfect) transparency mechanisms in the world, to suffer as a consequence. Yet the US is consistently and by far the largest arms exporter in the world, while UK arms exports as a proportion of total world arms exports have stayed roughly constant since the UK started public reporting of its arms export licensing decisions in the late 1990s. Although businesses prefer to operate in environments that provide for a certain degree of confidentiality, increased transparency is in the interest of the legitimate defence business because secrecy in the arms trade encourages the assumption that there is something to hide and in many cases providing more information to the public would help to avoid misleading or inaccurate reporting. Hence **if a transaction is recognised by all as legal and there is nothing to hide, it benefits the defence industry as a whole to make this information public.** Moreover, old prejudices regarding the disclosure of defence-related data preclude an informed public debate on the topic, as well as any matching research and analysis and high-level political discussions. **Without a good level of publicly accessible information on the defence trade and manufacturing, it is impossible to reliably evaluate the challenges faced by the defence industry in a specific country and to identify the measures required to address them.** On occasion, some countries in Central and Eastern Europe have had unrealistic expectations about the future prospects of their defence industry, which were not supported by any reliable analysis of the industry's capabilities and the actual level of arms production and export.⁶

V. The development of transparency in recent years

21. Since the end of the Cold War, an array of initiatives undertaken at the international, regional and national levels have tried to increase the level of information related to arms trade transactions, in parallel with efforts to regulate and restrain the arms trade.⁷ As a result, the number of countries releasing public data on their arms exports has increased. Countries that produce arms export reports are usually those that have provided more information. However, many countries that have yet to produce such reports provide some data through the international release of information to the UN, or through Customs data.

22. The **UN Register of Conventional Arms**, which was established in 1992, is to date the main global arrangement relating to conventional arms transparency, but has yet to reach its full potential⁸. Although the majority of Council of Europe member states, regularly provide information on arms transfers for inclusion in the UN Register, the information submitted is often incomplete:

- a significant number of countries only submit data on those transactions that they feel 'comfortable' reporting on;
- moreover, the seven categories of armaments covered by the Register are restricted to major weapons systems, such as battle tanks, combat aircraft, heavy artillery and naval vessels, and, with the exception of Man-Portable Air Defence Systems (MANPADS)⁹, they do not include small arms and light weapons (SALW);

⁶ Taming the Arsenal – Small Arms and Light Weapons in Bulgaria, Saferworld, p. 30-31.

⁷ Arms Industry Transparency, SIPRI.

⁸ The United Nations Register of Conventional Arms was established on 1 January 1992, under General Assembly resolution 46/36 L of 9 December 1991 entitled "Transparency in Armaments." The resolution called upon all member states to provide annually by 31 May, to the Secretary-General, relevant data on imports and exports of conventional arms to be included in the Register. UN Member States are also invited to report on their military holdings and procurement through national production and relevant policies. Paragraph 2 (a) of the annex to General Assembly resolution 46/36 L identifies the following seven categories of weapons on which Member States are requested to supply data to the Register: battle tanks, armoured combat vehicles, large calibre artillery systems, combat aircraft, attack helicopters, warships, and missiles or missile systems.

⁹ In 2003, a Group of Governmental Experts made recommendations, later endorsed by UN Resolution 58/54, to expand the Register to include transfers of man-portable air defence systems (MANPADS) and artillery between 75 and 100 mm.

- finally, the data is provided to the UN often more than a year after imports and exports have occurred. At the time of writing of this report (June 2006), of the 46 member states of the Council of Europe only 18 had submitted data to the UN Register on their arms imports and exports during 2005.

23. Another tool for international transparency on the arms trade is the **UN COMTRADE database** (administered by the UN Statistical Division), which provides global data on the trade in commodities (including arms) based upon reports from customs authorities. However,

- COMTRADE relies on voluntary submissions and many European countries withhold information on some, or all, of their arms transfers;
- furthermore, while some of the data concerns specific weapons (such as pistols and revolvers) other types of weapons are conflated in broad categories, or mixed up with civilian equipment, therefore it is sometimes difficult to identify exactly which type of weapon has been exported or imported;
- as noted above in relation to the UN Register, often data is transmitted to COMTRADE more than a year after the transactions have occurred, and reports from exporters frequently do not correspond with those from importers.

24. In addition to Comtrade, EU members, and some associate countries, also submit similar trade data to **Eurostat** (the EU's statistics agency). Eurostat suffers from problems similar to Comtrade, particularly with some countries censoring their data. Researchers have been unable to obtain precise definitions of the equipment contained in its various trade categories from Eurostat.

25. The issue of transparency and accountability of arms export control procedures has also become an area of significant debate at the national level. Within the Council of Europe region, there are member states that have developed the practice of producing **arms export reports**. It is within the EU sub-region where the most significant advances in this area have occurred. This can be attributed to a number of factors, including the reaction to various arms-related scandals in EU member states during the 1990s, pressure from non-governmental organisations and the reforms which were introduced as part of the EU Code of Conduct on arms exports.

26. Currently, many **EU member states** regularly publish annual reports on their arms exports, including the largest EU arms exporters. Although these reports represent a good source of information on national arms export control practices, significant variations remain in the quality and quantity of the information provided, meaning it is sometimes difficult to compare one report with another. This is why successive European Parliament resolutions have called on EU member states to provide more detailed information on their arms trade.¹⁰

27. The **UK's** national report is among the most comprehensive of all Council of Europe countries. The introduction of meaningful parliamentary oversight through the establishing of a Joint Select Committee mandated to examine UK strategic export controls and a published annual report in 1999 (in 2004 the UK moved to a quarterly reporting cycle) have transformed the UK from one of the least transparent governments in Western Europe to one of the champions for openness and accountability on this issue. The UK reports provide data, broken down by country of destination, on the number of licences issued and refused, a general description of the types of equipment licensed and partial information on the total combined value of certain classes of licence.

28. Other EU Member States also publish annual reports¹¹ that set good standards in certain areas. The **Italian** annual report, which is submitted every year by the Government to Parliament, was first produced in 1991. Although not always easy to read and available in the Italian language only, the report provides a high level of detail on armaments imported and exported, giving a full description of the goods, their value and quantity broken down by company. The Italian annual report is also one of the few to provide details of dual-use exports. The **Dutch** annual report distinguishes itself for the highly detailed information it provides on refusals of licence applications. The information includes a description of the goods for which a licence was

¹⁰ European Parliament Resolution on the Council's fourth Annual Report according to operative provision 8 of the European Union Code of Conduct on arms exports, 2002; European Parliament, Resolution on the first review of the EU Code of Conduct on the export or transfer of arms, 1999.

¹¹ EU member states that produce reports are: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Ireland, Italy, the Netherlands, Portugal, Slovakia, Spain, Sweden and the UK.

refused, the destination country, end-user and reason for refusal. The Netherlands also publishes monthly reports on export licences granted, giving details including the type of arms that have been licensed for export, the value of the licence, and the country of final destination.

29. I would like to provide detailed information about Sweden's reporting system as a model of good practice. The Swedish Government has been publishing national reports on Sweden's arms exports since 1985. The latest report, published by the Swedish Inspectorate of Strategic Products (ISP) (part of the MFA) in March 2006, covers all exports for the 2005 period. The report comprises 3 sections: Part I contains an introduction and summary of the year's activities. Part II deals with the implementation of export controls in Sweden and gives an overview of the Swedish export control framework and legislation, and Part III reports on international cooperation in this area including outreach programmes. The annexes include statistics on Sweden's exports of military equipment and dual-use goods, the relevant Swedish and EU guidelines and a list of international arms embargoes. The export statistics identify the number of licences issued by the recipient country, the category of equipment being licensed and value of the licensed items as well as the values of actual delivery. The report also identifies exporting companies and the value of the licenses which were issued to those companies for the reporting year. Also included is information on the number of export licences which were denied, transfers of manufacturing rights and information on joint developments. Finally, the ISP has also been publishing monthly reports on arms exports since January 2003, with the most recent report covering April 2006. These monthly reports contain information on all export licences which were issued for that reporting month, which list the country of final destination and the sub category of military or dual-use equipment that has been licensed.

30. Other countries seem to experience more difficulties in matching the same level of transparency displayed by most members of the EU. **Austria** published its first annual report on arms exports in 2006. This report, however, contains only very limited data on arms exports which are grouped in broad EU Common Military List categories. **Greece** and **Luxembourg** do not publish any annual reports on arms. **Spain** does publish an annual report, which, however, covers only the value and military list rating of actual exports and the number and value of licences.

31. Amongst the **countries which have joined the EU in the last enlargement**, progress in increasing transparency has been much slower. Though most countries are now publishing national laws, regulations and procedures related to arms transfer policy and practice, in most cases no information is provided on individual licensing decisions or on actual arms deliveries. As a result, the data available make is very difficult to judge how national controls are implemented in practice. Amongst new EU and candidate countries, only the Czech Republic, Estonia, Romania and Slovakia have to date produced national reports. The Czech Republic was the first of the new EU member states to produce an annual report in 2001. The Czech Report is available in English and provides data on export licences granted, as well as imports and exports. The information on licences is broken down into eight basic categories of military material and the country of final destination, while for imports and exports there is a description of the type of armaments.

32. **Outside of the European Union**, Switzerland has been publishing annual reports in French and German since 2000 and Norway has produced annual reports since 1999. The Bosnian Government published its first report on arms exports in February 2005, covering activities during 2004. The report provides information on imports, exports and transits of arms and ammunition, broken down by country and grouped in broad military categories.

33. **In the CIS countries** the arms trade information made available to the public is usually more limited than in most Western and Central European states. In practice, most of the countries in the region do not report much more than minimal data to regional mechanisms and international regimes. Often this information, as in the case of the OSCE and the Wassenaar Arrangement mechanisms, is confidential. Public information concerning the production and trade of armaments, especially SALW, is often difficult to obtain, inaccurate or shrouded in excessive secrecy. The 'secrecy mentality' – a well-known problem in all former socialist countries – makes it hard to gain reliable information about the defence industry in the region. The problem is compounded by the fact that governments feel limited or no pressure from the general public, as well as their own parliaments, to become more 'transparent', although in recent years a few organisations have emerged and are occasionally being heard by their governments on issues related to responsible weapons transfers, transparency and accountability. In **Russia**, for example, Saferworld and the Moscow-based Center for Policy Studies (PIR) are implementing a two-year project funded by the European Commission on 'Building Civil Society Capacity to Engage with Government to Tackle Small Arms in Russia.' Part of this project involves the development of policy dialogue between the Russian Government and civil society on arms export controls.

34. **Belarus**, which is not a Council of Europe member, and **Ukraine** are the only two post-Soviet countries that have published official government reports on arms transfers. The first Ukrainian report was published in January 2006 and covered activities relating to 2004. The report provides information on arms exports, including SALW, broken down by category and destination country. The Belarusian report provides information on national norms and procedures regulating arms export controls and some limited data on actual exports.¹² Other countries, including **Russia**, make regular statements to the press regarding arms exports. Such statements, however, are never comprehensive. Normally, they touch only briefly on issues such as quantity, value or destination of arms shipments and it is not possible to independently verify the veracity of the information given.

VI. Enhancing government accountability in arms export control policy

35. There is a democratic accountability gap in arms export control that affects a great majority of Council of Europe member states. **The main arguments put forward against parliamentary scrutiny are:**

- that parliament's involvement would slow down the government's decision-making process;
- it would risk clearly identifying individual companies, affecting commercial confidentiality; and
- lead to a loss of competitiveness.

36. However, **there is evidence that parliamentary scrutiny can be achieved in such a way that is not detrimental to a country's competitiveness of its arms industry or its national security.** In **Sweden**, for example, a system of confidential prior parliamentary scrutiny of sensitive export licences has been in operation since the mid 1980s without any appreciable delays in the licensing process overall or the security of the country. The Swedish Export Control Council has a number of political appointees representing all the major political parties, who meet monthly to discuss sensitive arms export licence applications before they are authorised.¹³ The Council is not consulted on all planned exports as the important cases would be lost in a potential information overload situation, but only on the interpretation of national guidelines in sensitive cases. The Council can request more details on any of the licence applications it is shown and, where there are concerns, it can raise objections to the granting of individual licences. Council members also receive reports on all export decisions, which give them a complete insight into the way in which their national arms export control system functions.¹⁴ The lesson from the Swedish experience is that proper parliamentary oversight of export licensing policy can be achieved through prior parliamentary scrutiny of sensitive licences.

37. The **UK** has also made progress in developing an oversight role for the Parliament. The Parliament's Quadripartite Select Committee, which comprises members of the Defence, Trade and Industry, Foreign Affairs and International Development Select Committees, examines the UK's record on arms sales and produces regular reports on arms export policy and practice and makes recommendations.¹⁵ The Committee holds evidence session with key government political figures, such as the Secretaries of State for Trade and Industry and Foreign Affairs, as well as with other interested parties, such as representatives from the defence industry and NGOs.

38. **Elsewhere in Western Europe**, parliamentarians use different mechanisms, including **parliamentary questions and parliamentary debates**, to have a say on the arms transfer policies and practices of their governments and to challenge the governments' hesitancy to provide more detailed information about arms transfers. Parliamentarians from a number of countries, including Austria, Belgium¹⁶, Italy and The Netherlands, sometimes ask governments to clarify their position or policy in regard to a particular arms export and to provide arms transfer data (in the case of Italy and the Netherlands, for instance, there is an annual debate on arms exports). Unfortunately, hardly ever do such attempts generate

¹² This includes data submitted to the UN Register of Conventional Arms and to the OSCE, as part of the OSCE document on SALW.

¹³ The United Kingdom Parliament, Supplementary Memorandum submitted by Saferworld, End-use, monitoring mechanisms and accountability: the lessons from Belgium, Sweden and Germany, December 1998.

¹⁴ *Ibid*

¹⁵ The Joint Committee has so far published eight Reports (with the 9th due in July 2006) on Strategic Export Controls dating back to 1997.

¹⁶ Parliamentary scrutiny in Belgium is done regionally rather than federally, with more debate on the issue in the Flanders region.

sustained parliament's interest and the few members of parliament committed to this issue find it difficult to marshal support from their colleagues. **This shows that it is not only governments that should be blamed for lack of transparency. Members of parliament themselves should be more active in exercising their oversight role in this field more seriously and even demanding a greater role,** in order to bring forward a change in the governments' practice.

39. **In Central, Southern and Eastern Europe and the Caucasus** the mechanisms for parliaments to exercise a monitoring role on arms transfers are more limited and it is extremely rare for parliamentarians to challenge the bureaucratic culture which wants arms trade issues to be an exclusive prerogative of Government: the most common tools at the disposal of parliamentarians - i.e. their ability to raise public awareness through speeches, lobbying with other members and the use of the press to support or raise objections to particular imports and exports - are hardly used. It is regrettable that in many countries from these regions parliamentarians tend to leave the control over the imports and exports of arms at the complete discretion of the governments. In this regard, I hope that the present report will help members of parliaments to change their attitude.

VII. Towards greater transparency – the way forward

40. In order for Council of Europe states to implement fully transparent arms controls procedures, actions are required at the international, regional and national levels. These should complement and reinforce each other. If properly implemented, they would contribute to the development of a much-needed global transparency regime.

41. There is a need to clarify the role of international instruments such as the UN Register of Conventional Arms and the UN COMTRADE database as global mechanisms for greater transparency. Development of the COMTRADE database is complicated by the fact that this is not primarily an arms transfer transparency mechanism. There is therefore perhaps more opportunity in the short term to improve the quality and scope of the information provided in the UN Register. This is particularly urgent in the case of SALW, where less information on transfers is available than for major weapons categories. At the very least, the categories of the UN Register of Conventional Arms should be revised and extended to include SALW, which are traded in large volumes and play a major role in contemporary conflicts. **Council of Europe member states, together with interested non-European countries should consider establishing an informal group that examines how best to use the UN Register to further develop arms transparency.**

42. **Regional small arms registers need to be developed to decrease uncertainty within and between regions and provide a basis for further negotiations.** In this regard, the UN Programme of Action on SALW includes a recommendation that regions develop appropriate measures to enhance transparency with respect to SALW transfers as a confidence-building measure and with a view to combating their illicit trade.¹⁷ This valuable recommendation builds upon previous recommendations that regions consider establishing 'regional registers' on SALW.¹⁸ Not only have all the Council of Europe member states made important commitments to increased information exchange and transparency through their participation in numerous regional and international arms control initiatives, but most of them are also members of multilateral organisations, such as the Organisation for Security and Cooperation in Europe (OSCE) and the EU where there already exist mechanisms which can be used for increasing public transparency and accountability in arms export controls.

43. **Council of Europe governments should not wait until regional or global agreements have been signed in order to make more official information related to their arms trade available to parliaments, the public and other governments.** This is particularly important for those countries that are important arms producing and exporting states and where there are still unnecessarily high levels of secrecy. There is substantial scope to improve the management and dissemination of information related to the arms trade without compromising national security, necessary commercial confidentiality, or law enforcement.

44. **The publication of comprehensive, detailed and clearly structured information on national arms export controls is key to ensuring the highest possible levels of transparency and accountability.** Governments should produce annual reports on their arms exports and imports, which, should at least contain details of export licences granted for all arms and dual-use goods intended for military, security or police end use. If information is provided under broad categories, such as those in the

¹⁷ Programme of Action to Prevent Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, Section II, Paragraph 31.

¹⁸ *Ibid.*

Wassenaar Arrangement's Control Lists, supplementary information should be given to allow a full understanding of the types of equipment that have been licensed. Details should also be given on the quantity, value, destination and end-user of the goods which have been exported. The table in appendix 2 describes an ideal typology of the information that should be contained in annual reports.

45. **There is a need to improve democratic accountability and parliamentary oversight over arms transfers.** This relates to both post-transfer oversight and mechanisms for prior consultation on sensitive licence applications. Council of Europe member states should make provisions for parliamentary scrutiny of their arms export control policies and their arms export decisions. As this may be seen to complicate the relationship between the Legislature and the Executive on this issue, it would be advisable to follow a step-by-step process, starting with a review in each country of the national practices relating to the disclosure of information to Parliament on the arms trade. Such a review would assess the effectiveness of current practices and consider appropriate modifications. Following the review, Council of Europe member states could examine possible measures to enhance parliamentary scrutiny in this area, including the allocation of responsibilities for parliamentary committees, the adoption of mechanisms for sharing confidential information with appropriate parliamentary bodies and a system of prior parliamentary scrutiny. The Council of Europe can play a crucial role in improving democratic accountability over arms transfers by calling for the above review in each country and setting out certain minimum standards to ensure that national parliaments play an active part in monitoring governments' implementation of arms trade controls, policies and practices. Such minimum standards should be reflected in multilateral policy documents by the Council of Europe concerning human rights. It is further recommended that the Parliamentary Assembly enhances cooperation in this area with the EU Parliament, NATO Parliamentary Assembly and national parliaments in Council of Europe member states.

46. **In order to bring more transparency into the arms trade, states need to dedicate appropriate resources to this end.** Overall costs are dependent on many factors, including the scope and quantity of the information gathered, the extent to which information exchange is required between different government departments, the number of staff required to amass and disseminate the data, the number of meetings required, etc. However, any additional costs of data collation and producing a report, according to the suggested typology should not be prohibitive, especially in light of electronic publication options. For Council of Europe members that find the costs of establishing transparency mechanisms and the resources required to maintain them problematic, donor countries, especially those that already have relatively well established transparency and accountability systems, should offer all appropriate assistance in the development of adequate transparency mechanisms. Such cooperation might include regional seminars, training for export control practitioners, computer equipment, and financial assistance. However, a precondition to the provision of any assistance is that countries requesting it will necessarily exchange detailed information with partners that are willing to provide such assistance.

VIII. Conclusions

47. It is peculiar that while countries around the world, including many Council of Europe member states, call for international cooperation to improve security and counter the terrorist threat, the arms trade largely remains a secretive governmental prerogative, in which parliamentarians should exercise more actively their inherent oversight role.

48. A reinforced role of parliaments and parliamentarians is even more important when one considers that in the long chain of successive perfectly legal trade operations, thought middlemen, exports via third countries or delocalised production, it happens all too often that weapons end up on the black market, in the hands of criminals and terrorist groups or in countries under embargo where they should not be exported.

49. Secrecy in the arms trade is part of the problem and not part of the solution. Instead, it is necessary to strike a balance between the right level of secrecy – justified on security and commercial grounds – and the right level of transparency and above all parliamentary oversight, to ensure that arms exported, imported or in transit are not used against the interests and the security of our own citizens or in violation of the international commitments taken by our governments, including by being members of the Council of Europe.

50. To this end, I suggest some measures which I have included in a preliminary draft resolution which I submit to your attention.

51. I would also like to draw the Committee's attention to the proposal of drawing up an Arms Trade Treaty (ATT). Since the mid-1990s the concept of an international legally binding instrument in this field has gained significant ground. 2006 is particularly crucial for the initiative. There are strong hopes that in October the UN First Committee will set in motion a process for negotiating an ATT, through the establishment of a

Group of Governmental Experts that will elaborate on the scope and content of an ATT. In this context, the governments of Argentina, Australia, Costa Rica, Finland, Japan, Kenya and the United Kingdom circulated in July a draft UN resolution entitled 'Effective control over the import, export, and transfer of conventional arms,' which will be tabled at the forthcoming First Committee of the UN General Assembly in October 2006. The sponsoring governments want the UN General Assembly to set up a Group of Governmental Experts "commencing no later than 2008, to examine the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms." This will hopefully lead to official negotiations on the ATT at the United Nations and eventually an agreement on an ATT.

52. I strongly call on all Council of Europe member states to encourage the ATT initiative.

APPENDIX 1

DATA ON ARMS IMPORTS AND EXPORTS DURING 2005

Country	Prior Parliamentary scrutiny	Annual reports	Participation in the UN Register	Information to UN COMTRADE
Albania	No	No	Nil imports Nil exports	Data on imports and exports
Andorra	No	No	Nil imports Nil exports	No data available for 2005
Armenia	No	No	Nil imports Nil exports	No data available for 2005
Austria	No	Yes	Nil imports Nil exports	Data on imports and exports
Azerbaijan	No	No	awaiting submission	No data available for 2005
Belgium	No	Yes	Nil imports Exports data	Data on imports and exports
Bosnia and Herzegovina	No	Yes	Awaiting submission	No data available for 2005
Bulgaria	No	No	Awaiting submission	No data available for 2005
Croatia	No	No	Awaiting submission	Data on imports and exports
Cyprus	No	No	Nil imports Nil exports	No data available for 2005
Czech Republic	No	Yes	Awaiting submission	No data available for 2005
Denmark	No		Imports data Nil exports	Data on imports and exports
Estonia	No	No	Awaiting submission	Data on imports and exports
Finland	No	Yes	Awaiting submission	Data on imports and exports
France	No	Yes	Awaiting submission	Data on imports and exports
Georgia	No	No	Awaiting submission	No data available for 2005
Germany	No	Yes	Awaiting submission	Data on imports and exports
Greece	No	No	Imports data Exports data	No data available for 2005
Hungary	No	No	Nil imports Exports data	No data available for 2005
Iceland	No	No	Nil imports Nil exports	Data available on imports and exports
Ireland	No	Yes	Awaiting submission	Data available on imports and exports
Italy	No	Yes	Awaiting submission	Data available on imports and exports
Latvia	No	No	Nil imports Nil exports	No data available for 2005
Liechtenstein	No	No	Nil imports Nil exports	Does not participate in COMTRADE database
Lithuania	No	No	Awaiting submission	No data available for 2005
Luxembourg	No	No	Awaiting submission	No data available for 2005
Malta	No	No	Nil imports Nil exports	No data available for 2005

Moldova	No	No	Awaiting submission	No data available for 2005
Monaco	No	No	Nil imports Nil exports	Does not participate in COMTRADE database
Netherlands	No	Yes	Awaiting submission	No data available for 2005
Norway	No		Awaiting submission	No data available for 2005
Poland	No	No	Awaiting submission	No data available for 2005
Portugal	No	Yes	Awaiting submission	No data available for 2005
Romania	No	Yes	Awaiting submission	No reports since 1997
Russian Federation	No	No	Awaiting submission	No data available for 2005
San Marino	No	No	Nil imports Nil exports	Does not participate in COMTRADE database
Serbia and Montenegro ¹⁹	No	No	Awaiting submission	No data available for 2005
Slovakia	No	Yes	Awaiting submission	No data available for 2005
Slovenia	No	No	Awaiting submission	No data available for 2005
Spain	No	Yes	Imports data Nil exports	No data available for 2005
Sweden	Yes	Yes	Nil imports Exports data	No data available for 2005
Switzerland	No		Awaiting submission	Data on imports and exports
“the former Yugoslav Republic of Macedonia”	No	No	Awaiting submission	Does not participate in COMTRADE database
Turkey	No	No	Awaiting submission	No data available for 2005
Ukraine	No	No	Nil imports Exports data	No data available for 2005
United Kingdom	No ²⁰	Yes	Awaiting submission	Data on imports and exports

¹⁹ Following the separation between Montenegro and Serbia in 2006, Serbia is the successor state to the State Union and continues to participate in the COMTRADE database. On 26 June 2006 Montenegro as become a member of the United Nations. It is free to decide whether to participate in the COMTRADE database.

²⁰ But there is post-export oversight.

APPENDIX 2

EXAMPLE OF INFORMATION TO BE INCLUDED IN GOVERNMENT'S REPORTING ON ARMS TRADE

Destination country	Description of the arms	Number of licences	Quantity (broken by end-users)	Value
Country A	pistols	5	400 for the police; 10 for the sporting club	150.000 euros
Country B	Military 2-way radios	2	70 for the army; 100 for the air force	60.000 euros
Total licences		7		
Total value				210.000 euros

Reporting Committee: Political Affairs Committee.

Reference to Committee: Ref. 3090, 06.06.05

Draft resolution unanimously adopted by the Committee on 05 October 2006

Members of the Committee : Mr Abdülkadir **Ateş** (Chairman), Mr Konstantion Kosachev (Vice-Chairman) (alternate : Mr Victor **Kolesnikov**), Mr Zsolt Németh (Vice-Chairman), Mr Giorgi Bokeria (Vice-Chairman), Mr Miloš **Aligrudić**, Ms Birgir Ármannsson, Mr Giuseppe Arzilli, Mr Claudio **Azzolini**, Mr Miroslav Beneš, Mr Radu-Mircea Berceanu, Mr Alexandër Biberaj, Ms Raisa Bohatyryova, Mr Luc Van den Brande, Mr Lorenzo Cesa, M. Mauro Chiaruzzi, Ms Elvira Cortajarena, Ms Anna Čurdová, Mr Noel Davern, Mr Dumitru Diacov, Mr Michel Dreyfus-Schmidt, Ms Josette Durrieu, Mr Mikko **Elo**, Mr Joan Albert Farré Santuré, Mr Pietro Fassino (alternate: Mr Pietro **Marcenaro**), Mr Per-Kristian Foss (alternate: Mr Vidar **Bjørnstad**), Mr Jean-Charles Gardetto, Mr Charles Goerens, Mr Daniel Goulet, Mr Andreas **Gross**, Mr Jean-Pol Henry, Mr Serhiy Holovaty, Mr Joachim **Hörster**, Mr Tadeusz **Iwiński**, Mr Elmir Jahić, Mr Miloš Jeftić, Mr Oskars Kastēns, Ms Darja Lavtižar-Bebler, Mr Göran **Lindblad**, Mr Younal Loutfi, Mr Mikhail Margelov, Mr Tomasz Markowski (alternate: Mr Andrzej **Grzyb**), Mr Dick Marty, Mr Frano Matušić, Mr Murat **Mercan**, Mr Jean-Claude Mignon, Mr Marko Mihkelson, Ms Nadezhda Mikhailova, Mr Aydin **Mirzazada**, Mr João Bosco Mota Amaral, Ms Natalia Narochnitskaya, Mr Grygoriy Nemyrya, Ms Carina Ohlsson (alternate: Mr Pär Axel **Sahlberg**), Mr Theodoros Pangalos (alternate: Mr Panagiotis **Skandalakis**), Ms Elsa **Papadimitriou**, Mr Christos Pourgourides, Mr Gordon Prentice (alternate: Mr John **Austin**), Mr Gabino Puche, Mr Lluís Maria **de Puig**, Mr Jeffrey Pullicino Orlando (alternate: Mr Leo **Brincat**), Mr Andrea **Rigoni**, Lord Russell-Johnston, Mr Oliver Sambevski, Mr Peter Schieder, Mr Ingo **Schmitt**, Mr Adrian **Severin**, Ms Hanne Severinsen, Mr Samad **Seyidov**, Mr Leonid Slutsky, Mr Michael Spindelegger, Mr Rainer Steenblock (alternate: Mrs Marieluise **Beck**), Mr Zoltán **Szabó**, Baroness Taylor of Bolton (alternate: Lord **Tomlinson**), Mr Mehmet **Tekelioğlu**, Mr Tigran **Torosyan**, Mr José **Vera Jardim**, Ms Biruté Vesaitė, Mr Varujan Vosganian, Mr David **Wilshire**, Mr Bart **van Winsen**, Mr Wolfgang Wodarg, Ms Renate Wohlwend (alternate: Mrs Doris **Frommelt**), Mr Boris **Zala**, Mr Krzysztof Zaremba (alternate: Mr Karol **Karski**).

Ex-officio: MM. Mátyás Eörsi, Mats Einarsson,

N.B. : The names of the members who took part in the meeting are printed in **bold**

Head of the Secretariat : Mr Perin

Secretaries to the Committee: Mrs Nachilo, Mr Chevtchenko, Mrs Sirtori-Milner, Mrs Pieter, Mrs Dadoun