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Plenary sitting

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B7-0264/2013

MOTION FOR A RESOLUTION

to wind up the debate on the statement by the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy

pursuant to Rule 110(2) of the Rules of Procedure

on arms exports: implementation of Council Common Position 2008/944/CFSP (2013/2657(RSP))

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B7-0264/2013

European Parliament resolution on arms exports: implementation of Council Common Position 2008/944/CFSP (2013/2657(RSP))

The European Parliament,

- having regard to Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment,
 - having regard to COARM’s Thirteenth and Fourteenth Annual Reports¹,
 - having regard to the list of dual-use goods and technology in the annexes to Regulation (EU) No 1232/2011 of the European Parliament and of the Council of 16 November 2011 amending Council Regulation (EC) No 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items,
 - having regard to Council Joint Action 2002/589/CFSP of 12 July 2002 on the European Union’s contribution to combating the destabilising accumulation and spread of small arms and light weapons and repealing Joint Action 1999/34/CFSP, and to the EU Strategy to combat illicit accumulation and trafficking of small arms and light weapons and their ammunition, adopted by the European Council on 15-16 December 2005²,
 - having regard to the Wassenaar Arrangement of 12 May 1996 on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, together with the lists, updated in 2011 and 2012, of those goods and technologies and munitions³,
 - having regard to the adoption of the global Arms Trade Treaty by the UN General Assembly on 2 April 2013,
 - having regard to Rule 110(2) of its Rules of Procedure,
- A. whereas arms exports and transfers have an impact on human security, human rights, democracy, good governance and socio-economic development, and whereas it is therefore important to strengthen the EU’s export control policy for military technology and equipment, which should be embedded within a transparent, effective and commonly accepted and defined arms control system;
- B. whereas Common Position 2008/944/CFSP is a legally binding framework laying down eight criteria, and whereas, if those criteria are not met, an export licence should be denied (in the case of criteria 1 to 4) or consideration should at least be given to doing so (in the case of criteria 5 to 8);
- C. whereas the criteria are intended, *inter alia*, to prevent arms exports as a result of which

¹ OJ C 382, 30.12.2011, p. 1; OJ C 386, 14.12.2012, p. 1.

² OJ L 191, 19.7.2002, p. 1; Council of the European Union, 5319/06, 13.1.2006.

³ <http://www.wassenaar.org/>

conflicts would be aggravated (criteria 3 and 4), human rights and international humanitarian law violated (criterion 2) or a recipient country's development prospects adversely affected (criterion 8); whereas the Common Position is unrestricted in scope and, accordingly, the eight criteria apply also to exports within the EU and to arms transfers to countries closely associated with the EU;

- D. whereas, under Article 3 of the Common Position, the eight criteria set minimum standards only and are without prejudice to more restrictive arms control measures by Member States;
- E. whereas Article 10 of the Common Position states that while Member States may take into account the interest of proposed exports from the economic, social, commercial, and industrial point of view, such considerations must not affect the application of the criteria underlying the Common Position;
- F. whereas some developments towards a stronger verification and reporting system have been observed since the presentation of the annual Council reports under Article 8(2) of Council Common Position 2008/944/CFSP; whereas, however, there is no standardised verification and reporting system and the Member States apply and interpret the Common Position's eight criteria in different ways when authorising or denying export of the same categories of military goods to the same destinations; whereas there is, therefore, a need to overcome legislative and operational obstacles in order to achieve better, ambitious application of the eight criteria by all Member States;
- G. whereas compliance with the Common Position has been the subject of academic research and published contributions from civil society; whereas there is no possibility of having compliance with the eight criteria independently verified;
- H. whereas measures on trafficking in small arms and light weapons have been adopted in recent years, for example the UN firearms protocol; whereas areas such as control of arms brokering, licensed production outside the EU and end-user control have been put on the agenda and, to some extent, incorporated into the Common Position itself;
- I. whereas the EU legislation on dual-use goods regulates the export, transfer, brokering, and transit of such goods and is governed by Regulation (EU) No 388/2012 of 19 April 2012 amending Council Regulation (EC) No 428/2009; whereas an updated List of Dual-Use Goods and Technologies under the Wassenaar Arrangement was adopted in February 2012, but the large majority of dual-use goods products, in particular in the field of surveillance technology, are still not covered by a legally binding exports control system;
- J. whereas many surveillance technologies and surveillance software products and many other goods used in a host of recipient countries for repressive measures against their populations are included neither in the Common Military List of the European Union nor in the EU list of dual-use goods;
- K. whereas developing countries continue to be the primary focus of foreign arms sales activity by weapons suppliers; whereas, during the period 2004-2011, the value of arms transfer agreements with developing nations comprised two thirds of all such agreements worldwide; whereas irresponsible arms transfers and arms-related debt are undermining

for many developing countries' chances of achieving the Millennium Development Goal (MDG) targets;

- L. whereas the countries of the European Union granted arms export licences to a total value of EUR 37.52 billion in 2011;
- M. whereas events such as the Arab Spring in the Middle East and North Africa (MENA) have once again revealed the problematic link between democratisation and human rights issues as a liability when it comes to arms trade with such countries; whereas the events of the Arab Spring have shown once again the absolute necessity and importance of the Common Position and its eight criteria, as well as of broader international agreements such as the Arms Trade Treaty; whereas foresight should enable future initiatives and reports to make use of such lessons, especially when it comes to the propagation of traded arms to non-state actors as in the case of Libya;
- N. whereas in recent years the MENA countries have ranked, and still do, among the key buyers of European arms; whereas in 2010, EU Member States exported arms to the MENA countries to a total value of EUR 8 324.3 m – in 2011 the total was still as much as EUR 7 975.2 m – on grounds of fostering political stability¹; whereas between 2006 and 2010, in respect of Libya alone, EU Member States issued export licences to a total value of EUR 1 056 m, while during the same period 54 applications for arms exports to Libya were denied in the light of criteria 2, 7 and 5 (most frequently criterion 2)²;
- O. whereas the international arms trade is considered by Transparency International to be one of the three most corrupt businesses in the world;
 - 1. Notes that, according to the Stockholm International Peace Research Institute (SIPRI), the EU Member States, taken as a whole, are the world's second-largest arms exporter, only slightly behind the United States, and that an ever increasing proportion of arms exports – 61 % in 2011 – is being delivered to countries outside the EU;
 - 2. Welcomes the fact that European and non-European third countries have joined the arms exports control system on the basis of the Common Position and Arms Trade Treaty (ATT); notes with concern, however, that the eight criteria are not being applied and interpreted consistently in the EU Member States; calls therefore for a standard, uniform and revised interpretation and implementation of the Common Position with all its obligations, together with the provision of a mechanism whereby a Member State's security concerns regarding arms exports could be addressed; notes that the EU is the only union of states to have a legally binding framework, unique in the world, through which arms export control is being improved, including in relation to crisis regions and countries with questionable human rights records and in relations to countries which present a proven risk of diverting the transferred goods in an unauthorised way to other end-users;
 - 3. Takes the view that, because of the negative impact of arms spending on the development

¹ 2012 report on arms exports, Gemeinsame Konferenz Kirche und Entwicklung (GKKE) (Joint Conference on Church and Development), p. 9.

² 'The Review of the EU Common Position on Arms Exports: prospects for strengthened controls', Mark Bromley, Non-Proliferation Papers, No. 7, January 2012, p. 12.

prospects of poorer recipient countries, Criterion 8 should be upgraded by making denial of export licences automatic if they are incompatible with development;

4. Recalls that, operating through non-transparent processes, arms purchases have contributed significantly to the over-indebtedness of some countries, including a number of Member States; insists, therefore, that there should be greater transparency with respect to the purchase and sale of arms and that information on the intra-Community arms trade should continue to be included in the EU annual report;
5. Considers that a standardised verification and reporting system should be established in order to allow for public assessment as to whether, and to what extent, individual EU Member States' exports risk assessments and decisions have been guided by the eight criteria of the Common Position, in order to allow conclusions to be drawn about the extent to which the criteria have been applied by national authorities; considers it important that such a system should be based on the principle of transparency;
6. Insists, in the light of the review process, that the wording in the Common Position be made clearer and more unambiguous in order to ensure that the criteria are interpreted and applied in a uniform way; insists in particular that Article 10 of the Common Position be acted on; calls for more detailed guidance to be provided in the User's Guide under Criterion 2, and Criterion 7, as well as an update of Annexes I to IV, including a reference to the EU human rights country strategies;
7. Calls for the inclusion in the Common Position of the post-embargo toolbox which should integrate or initiate the following aspects: (a) regular assessments, also involving relevant EU units and working groups other than COARM, as well as national governments and authorities, with the aim of clarifying whether the EU should reimpose an embargo, continue to keep it under special measures, or further normalise controls, (b) operate a policy of presumption of denial to the ex-embargo state, (c) apply the equivalent of the existing denial notification/consultation mechanism with regard to all potential transfers to the formerly embargoed state, (d) states to report on individual transfers for inclusion in the Consolidated Report, (e) Member States must reserve the right to undertake post-transfer inspections for end-use verification purposes, and (f) the end-use control on dual-use items to states under embargo should be extended to include these states;
8. Calls on the Member States, with regard to export controls and application of the eight criteria, to pay greater attention to goods which may be used for both civilian and military purposes, such as surveillance technology, and similarly to spare parts and products suitable for use in cyber warfare or non-lethal human rights abuses;
9. Calls furthermore for the criteria of Common Position 2008/944/CFSP to be better applied, suggests that the eight criteria be extended, within the provisions of the Common Position, also to arms-exports-related services, know-how and training; calls – where dual-use goods and technology are to be exported – for compatibility with the eight criteria to be verified, if there are reasons for believing that the exports of such goods and technology would breach one of the eight criteria;
10. Regrets the fact that, in 2010, only 63 % of the EU Member States submitted complete sets of data relating to their arms exports; notes that the countries which repeatedly supply

incomplete information on their exports are also some of both the EU's and the world's largest arms-exporting countries;

11. Notes that methods for collecting data on arms exports, as well as practices for publishing data sets recorded, vary across the Member States, as a result of which the COARM annual report includes standardised information on issued export licences but does not include some important information on actual exports of arms; calls accordingly for the introduction of a standardised reporting submission procedure for information on actual exports to be applied uniformly in all Member States; welcomes initiatives of the Member States to improve the situation so as to submit and publish accurate, up-to-date and exhaustive information; asks for individual licence refusals to be reported in the COARM Annual Report with reference to the criteria numbers on which refusals are based and the Member State concerned;
12. Calls on the Member States to provide additional, more up-to-date information that could, if necessary, be used as a basis for drawing up a joint list of countries' arms exports and transfers which would violate one or more of the eight criteria, and as a basis for a better understanding and better controls on the part of national and commonly agreed international supervisory bodies, as well as being used for the COARM annual report; suggests, in this connection, setting up a post-export control mechanism;
13. Calls for the COARM annual report also to include information on the final destination of exports within Europe, on onward transfers to third countries which may be problematic and on licensed production outside the EU; further suggests including in the COARM annual report a follow-up to the issues regarding arms exports identified in the previous reports, as well as measures taken by the Member States to address those issues;
14. Notes that government officials responsible for issuing national export licences are, and should be, more regularly consulted at COARM meetings in cooperation with the Council Working Group on Human Rights (COHOM), since they can make an important contribution to implementing the Common Position and help improve the quality of the information exchanged; considers, furthermore, that consultations should extend to civil society organisations and other stakeholders addressing the issue of arms export control;
15. Underscores the important role of civil society, national parliaments and the European Parliament in both implementing and enforcing the Common Position's agreed standards at national and EU level and in establishing a transparent, accountable control system; calls, therefore, for a transparent, robust control mechanism which bolsters the role of parliaments and of civil society;
16. Takes note of the fact that control of compliance with the criteria takes place in accordance with national regulations, that there is no possibility of having compliance with the eight criteria independently verified and that there are no consequences of violation of the eight criteria by a Member State; takes the view that ways and means of carrying out independent verification of violations of the Common Position should be provided for; is of the opinion that national parliaments or specific parliamentary bodies such as parliamentary supervisory committees must ensure effective control of the application of the criteria; calls on the Member States to seek for a homogeneous, ambitious application of the eight criteria by all Member States; calls on the Member

States to also promote much higher levels of transparency by publishing more timely and complete sets of data on the arms exports of all Member States; underlines in this regard the importance of cooperation with civil society;

17. Reiterates its full backing for a robust and legally binding Arms Trade Treaty (ATT), under the auspices of the United Nations, on international trade and transfers in conventional arms; stresses, therefore, that this objective must be one of the priorities for the EU's external policy;
18. Urges the Member States to favour robustness with regard to membership and implementation of the treaty, as opposed to favouring a weak treaty with universal consensus; in line with Article 5.3 of the treaty, furthermore, encourages all states to apply its provisions to the broadest possible range of conventional arms;
19. Highlights the importance of transparency and accountability mechanisms in the effective implementation of any international agreement on arms control; calls, therefore, for a mechanism for exchange of information and best practices between States Parties on arms exports, imports and transfer decisions, in addition to strong, clear provisions for public annual reporting by the States Parties on all arms transfer decisions, including information on types, amounts and recipients of equipment authorised for transfer and on the implementation of the full scope and provisions of the treaty;
20. Underlines and welcomes the fact that the treaty specifically prohibits the transfer of specified conventional weapons, including small arms and weapons, if it violates sanctions and in particular arms embargoes imposed under Chapter VII of the UN Charter, if it contravenes the exporting state's international obligations under its international agreements, in particular those relating to the transfer of, or illicit trafficking in, conventional arms, and if there is knowledge that the exported arms and items have the potential to be used for genocide, crimes against humanity, war crimes, and attacks against civilians;
21. Takes the view that the European Union should meet its increased responsibility for peace and security in Europe and in the world by means of further arms limitation and disarmament initiatives, and that it should play an active role in the areas of non-proliferation of arms, global disarmament and arms transfer controls;
22. Takes the view that the EU should formulate a comprehensive conversion strategy; recommends, in connection with that strategy, that a plan be developed as to how conversion from arms production to civilian goods production can proceed as quickly as possible;
23. Instructs its President to forward this resolution to the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the Council, the Commission, the governments and parliaments of the Member States, and the Secretary-General of the United Nations.