



## In the Briefing Paper

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## 1. Background Information on the Regulation of Arms Export of EU MS

**The European Code of Conduct on Arms Export:** In order to harmonize arms export policies and to prevent the “export of military technology and equipment which might be used for undesirable purposes such as internal repression or international aggression or contribute to regional instability”<sup>1</sup> the Council adopted the *European Union Code of Conduct on Arms Exports* (CoC) in 1998. The CoC set up eight criteria for the export of conventional arms and established a notification and consultation mechanism for denials. To make the procedure more transparent, it also demanded that Member States publicize an annual report on their arms exports which are consolidated in the EU annual report on arms exports. Furthermore in the CoC a list of military equipment which falls under the Code and which acts as a reference point for Member States was adapted and adopted.

**The Common Position 2008/944/CFSP:** The CoC relied on the will of the Member States and was not legally binding. On 8 December 2008 the Member States adopted the Common position 2008/944/CFS replacing the CoC that made the previously established rules legally binding. The Common Position also included several new elements extending controls and implementing strengthened procedures. This affected, for example, the inclusion of transit transactions whose exclusion had been criticized before. Before the new regulation the US-made Apache attack helicopter sold to Israel included sub-systems manufactured by companies in Britain, the Netherlands<sup>2</sup>, and Ireland<sup>3</sup>; the US-made battle tanks used by the Israeli army during the Gaza war contained German manufactured engines and gears<sup>4</sup>. Although under the CoC regulations EU Member States were not allowed to sell these components directly to Israel, they circumvented this obstacle by selling them to a third state involved in the arms trade with Israel. This has become illegal after the introduction of the Common Position 2008/944/CFSP which represents a major legal improvement for

<sup>1</sup> Council of the European Union (2009). Security related export controls II: Military Equipment

<sup>2</sup> Cf. Campagne tegen Wapenhandel (2004) Arms transfers to Israel in violation with policy

<sup>3</sup> Cf. Amnesty International (2004). Undermining Global Security: the European Union's arms exports

<sup>4</sup> Cf. Nassauer (2009) Deutsche Waffenexporte nach Israel: Der unsichtbare Dritte

preventing the arms trade toward states that do not respect human rights and the humanitarian law.

**Selected denial criteria for conventional arms trade (EU Code of Conduct)**

- 1) EU Member States will not issue export licences when they contravene the international commitments, such as sanctions decided by the UN Security Council and the Community, agreement on non proliferation or similar made by the Member State. Furthermore an export license should be refused if approval would be inconsistent with, inter alia: the international obligations of Member States under the Nuclear Non-Proliferation Treaty, the Biological and Toxic Weapons Convention and the Chemical Weapons Convention.
- 2) EU Member States will not issue export licences if the country of final destination is violating human rights and fundamental freedoms or if there is a clear risk that such weapons could be used for internal repression.
- 3) EU Member States will not issue export licences if the internal situation in the country of final destination is characterised by tension or armed conflicts if such export could provoke or prolong armed conflicts or aggravate existing tensions or conflicts.
- 4) EU Member States will not issue export licences if there is a clear risk that the intended recipient would use the proposed export aggressively against another country or to assert by force a territorial claim.
- 5) When considering an application for an export licence, EU Member States will take into account their national security and that of other Member States or other allied countries.
- 6) When considering an application for an export licence, EU Member States will take into account the behaviour of the buyer country with regard to the international community, and especially its attitude to terrorism, the nature of its alliances and respect for international law
- 7) EU Member States will not issue export licences if there is a risk that the equipment will be diverted within the buyer country or re-exported under undesirable conditions.
- 8) When considering an application for an export licence, EU Member States will take into account whether the proposed export would seriously hinder sustainable development of the recipient country. They will consider in this context the recipient country's relative levels of military and social expenditure and any EU or bilateral aid.

**The EU-Israel Association Agreement:** The EU-Israel Association Agreement represents the main legal basis governing relations between Israel and the European Union. The Agreement regulates free trade arrangements for industrial and agricultural goods and gives Israel special access to EU markets. It was signed in Brussels on 20 November 1995 and entered into force on 1 June 2000, replacing the earlier Co-operation Agreement of 1975<sup>5</sup>.

Article 2 of the Agreement states that relations between Israel and EU Member States "shall be based on respect for human rights and democratic principles, which guides their internal and international policy and constitutes an essential element of this Agreement"<sup>6</sup>. Therefore arms trade with a state that violates international law and international humanitarian law does not comply with either the spirit or letter of the Agreement.

**The UN Special Rapporteur for Human Rights' opinion on arms trade with Israel**

"The Israeli airstrikes today, and the catastrophic human toll that they caused, challenge those countries that have been and remain complicit, either directly or indirectly, in Israel's violations of international law. That complicity includes those countries knowingly providing the military equipment including warplanes and missiles used in these illegal attacks."

Richard Falk, the UN Special Rapporteur for Human Rights in the Occupied Palestinian Territories speaking on 27 December 2008

## 2. Difficulties in Tracking the Arms Trade

**Difficulties in tracking the arms trade:** The arms trade is difficult to define, control and measure for four main reasons.

<sup>5</sup> Delegation of the European Union to Israel:

[http://ec.europa.eu/delegations/israel/eu\\_israel/political\\_relations/institutional\\_framework/index\\_en.htm](http://ec.europa.eu/delegations/israel/eu_israel/political_relations/institutional_framework/index_en.htm)

<sup>6</sup> Official Journal of the European Communities: Euro Mediterranean Agreement, establishing an association between the European Communities and their Member States, on the one part, and the State of Israel on the other part; p. 2

1. First, states and international organizations do not agree on a common definition of “arms”, the lists of items elaborated by the international actors vary in their coverage and complexity.
2. Second, international actors use different criteria to define what types of activities constitute arms trade.
3. Third, the lack of transparency affecting the international arms market hinders the exact estimation of value and volume of exported/imported arms.
4. Fourth, an international trade treaty establishing common rules does not exist.

As a consequence, estimations of the international arms trade vary significantly. The national lists of licenses issued for the export of arms and military equipment provide a useful starting point. Since 1999 the European Union has established the practice of releasing an annual report containing data about the number and value of licenses issued by its Member States. Reliable financial estimates are also provided by the Stockholm International Peace Research Institute (SIPRI). The SIPRI database elaborates figures of the arms import/export by using national reports and official statements. The SIPRI arms transfer database coverage is narrower than the EU annual report and it does not include transfers of most small arms and light weapons. However it provides very useful information and a unique pricing system to measure the volume of arms transfers. Due to these discrepancies, it is not possible to make a direct comparison between the different databases and report systems<sup>7</sup>.

**Lack of transparency:** Although the establishment of the CoC and the adoption of the Common Position do indicate progress in regulation of arms exports from EU Member States, transparency on arms trade is far from achieved. Experts<sup>8</sup> hint at the fact that figures published in the annual reports do not represent the whole picture of the legal arms trade. Whereas most states publish the numbers of licenses issued, not all states publish the real figures of the legal export de facto taking place within the year of the report, which could deviate a great deal from the number of licenses issued<sup>9</sup>. These numbers then do not allow any inference whether real exports are rising or declining<sup>10</sup>.

More precise data on arms trade between EU Member States and Israel would be easier to retrieve if Israel were publishing any information on these trade relations as well. Israel, however, does not declare its arms imports.

Not all types of equipment and technology are covered by the EU regulations, so some arms trade, like the trade in components or dual-use commodities<sup>11</sup>, can occur without being included in the reporting system. Others<sup>12</sup> raise the issue that the data do not provide any information as to whether the weapons are for civilian or military use. They also criticize the fact that the criteria regulating arms exports can be interpreted quite freely. One example of this is the direct export of German submarines to Israel. The export was licensed and justified by stating that submarines do not play a role in civil wars and thus do not contradict the CoC’s regulations. The submarines delivered, however, were found to have actively supported the war in Gaza in various strategic ways<sup>13</sup>.

**Arms trade funding:** Weapons manufacturers do not receive payment for the sales immediately. They need financial institutions to provide loans to cover such sales. Loans are provided by both public (export credit agencies) and private institutions (banks). In most European countries there is little information available about these transactions, therefore data are only indicative. The majority of the export credit agencies publish very little information and these are only available for the Netherlands, Germany, the United Kingdom, Sweden, Belgium, and France.

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<sup>7</sup> Paul Holtom and Mark Bromley: The International Arms Trade, Difficult to Define, Measure and Control, available at: [http://www.armscontrol.org/act/2010\\_07-08/holtom-bromley#2](http://www.armscontrol.org/act/2010_07-08/holtom-bromley#2)

<sup>8</sup> Cf. for example Mark Bromley (2008) 10 years down the track - The EU Code of Conduct on Arms Exports

<sup>9</sup> Personal communication of author with a Middle East security expert

<sup>10</sup> Schrezenmeir (2009) Rüstungsexportbericht: Das Geschäft mit dem Krieg

<sup>11</sup> Cf. Nassauer/Steinmetz (2003) Rüstungskooperation zwischen Deutschland und Israel. p. 14

<sup>12</sup> Cf. Jackson (2006) Europe and the Middle East: brothers in arms

<sup>13</sup> Cf. Nassauer (2009) Deutsche Waffenexporte nach Israel: Der unsichtbare Dritte

The private funding for arms exports is even more difficult to track. Italy is the only country in the world that publishes private arms trade funding. Every year the Ministry of Finance, prepares a report for the Parliament based on the information received by other ministries such as Defence, Treasury or Foreign Affairs. Provision of this information is obligatory under the Law 185/90, adopted in 1990, which regulates the system of arms imports and exports and the publication of information regarding these commercial transactions (such as manufacturer/producer, the volume of each transaction and the destination country). Unfortunately, the Law 185/90 has some gaps: it does not regulate small arms; it does not include all the financing mechanisms facilitated by the banks; it does not cover arms brokers; and it does not cover export credit agencies (which in Italy means that private banks have to give more information than state agencies).

Despite these limitations, the Law 185/90 should be considered as one of the most advanced regarding the regulations of arms trade. Thanks to the Italian public report, in 2006 a Spanish researcher discovered that Banco Bilbao Vizcaya Argentaria (BBVA) funded Italian exports of military equipment to Israel valued at 329,066 euros<sup>14</sup>. Unfortunately, since 2009, the report no longer publishes data about specific investments. Since then, the financial report indicates only the overall investment value of each bank but it no longer includes a list of every single transaction for each bank. Without this list it is no longer possible to identify the countries of destination of the arms trade.

## 5. Arms Exports from EU Member States to Israel

**Public data:** The EU Code of Conduct and article 8(2) of the Common Position provide for the publication of an annual EU report on arms trade of the Member States. This practice was established in 1999 to guarantee more transparency. Due to this provision every Member State shall publish an annual report on the export licenses granted for arms. These reports vary in detail but, at a minimum, tend to provide data on the financial value of arms export licenses or arms exports<sup>15</sup>.

According to these EU reports, between 2003 and 2008 the overall value of licences awarded by EU governments for arms sales to Israel amounted to more than 1 billion euros<sup>16</sup>.

The biggest exporters are France, Germany, Britain, Belgium, Poland, Romania and the Czech Republic.

Ten EU Member States officially state, that they do not trade weapons to Israel. These include Portugal, Ireland, Finland and Denmark<sup>17</sup>.

According to official data provided by the EU reports, France is the largest European supplier of weapons to Israel, issuing licenses worth more than 521 million euros between 2003 and 2008. The French government gave an assurance that the exports in question are generally only components of military goods rather than complete weapon systems. Notwithstanding, these components are used by the Israeli army<sup>18</sup>.

### Military equipment, definition

As stated by Shawan Jabarin, general director of the Palestinian Human Rights group Al-Haq:

*The Apache is not just equipment. For Palestinians it is a symbol of indiscriminate military violence, from a young age every Palestinian child learns to distinguish the Apache's sound and associate it with assassinations, destruction and blood in the street.*

### According to EU Annual Report on Arms Export (in €)

14 Government of Italy (2007): "Relazione Sulle Operazioni Autorizzate E Svolte Per Il Controllo Dell'esportazione, Importazione E Transito Dei Materiali Di Armamento, Nonché Dell'esportazione E Del Transito Dei Prodotti Ad Alta Tecnologia (Anno 2006)", Doc. LXVII, no. 2, 30

March as quoted in Alejandro Pozo Marin: Spain-Israel, Military, Homeland, Security, and Armament-Based Relations, Affairs ad Trends; p. 22

15 Paul Holtom and Mark Bromley: The International Arms Trade, Difficult to Define, Measure and Control, available at:

[http://www.armscontrol.org/act/2010\\_07-08/holtom-bromley#2](http://www.armscontrol.org/act/2010_07-08/holtom-bromley#2)

16 See first, second, third, forth, fifth, sixth seventh eighth, ninth, tenth and eleventh report available at:

<http://www.consilium.europa.eu/showPage.aspx?id=1484&lang=en>

17 David Cronin: Defying Rules on Arms Sales to Israel, Inter Press Service, available at: <http://ipsnews.net/news.asp?idnews=4702>

18 David Cronin: Defying Rules on Arms Sales to Israel, Inter Press Service, available at: <http://ipsnews.net/news.asp?idnews=47025>

Country	2003	2004	2005	2006	2007	2008	Total
Austria	-	724,806	24,540	476,890	11,875	176,925	1,415,036
Belgium	3,148,534	-	14,232,708	511,867	5,409,223	1,406,573	24,708,905
Bulgaria	-	-	-	-	2,455,498	2,435,187	4,890,685
Cyprus	-	-	-	-	-	-	0
Czech Republic	10,863,689	94,000	707,000	292,000	2,820,523	285,430	15,062,642
Finland	-	-	-	-	-	84,776	84,776
France	57,367,877	101,344,894	72,219,112	89,139,711	126,271,263	75,033,595	521,376,452
Germany	131,567,362	14,770,993	20,358,689	19,558,179	28,970,368	25,083,601	240,309,192
Greece	203,034	337,784	558,858	88,606	29,640	35,160	1,253,082
Hungary	446,920	255,000	-	41,370	10,000	28,035	781,325
Italy	2,621,215	29,373	1,302,815	1,023,105	451,103	1,885,712	7,313,323
Luxembourg	-	-	39,954	-	-	-	39,954
Netherlands	10,000	-	7,923	393,000	116,542	314,011	7,535,761
Poland	5,273,883	4,063,682	567,488	6,678,485	3,849,962	7,008,296	27,441,796
Portugal	-	-	-	-	-	-	0
Romania	-	-	-	-	16,667,870	15,455,195	32,123,065
Slovakia	776,990	4,130,158	719,897	358,413	70,712	607,355	6,663,525
Slovenia	498,062	628,137	255,833	1,550,255	1,669,232	52,159	4,653,678
Spain	734,483	175,537	953,116	1,109,575	4,365,309	157,200	7,495,220
UK	16,905,000	17,280,000	33,454,974	5,927,948	6,789,897	31,555,334	111,913,153
<b>Total</b>	<b>230,417,049</b>	<b>143,834,364</b>	<b>145,402,907</b>	<b>127,149,404</b>	<b>199,959,017</b>	<b>161,604,544</b>	<b>1,015,061,570</b>

**Civil Society Investigations on EU-Israel arms trade:** Apart from the public data reported by the European Union, several investigations about arms trade between EU Member States and Israel have been undertaken by a range of civil society organizations such as Amnesty international and the UK Campaign Against the Arms Trade. The Stockholm International Peace Research Institute has been generating an Arms Transfer Database containing information on all transfers of seven categories of major conventional weapons since 1950. Unfortunately this is not comparable with the data provided by the EU because they are categorized differently. However, the SIPRI database is regarded as the fundamental source of information for tracking the arms trade. Below a brief resume of the most significant findings divided by exporting nation:

- **France** is one of Israel's biggest arms suppliers after the United States. According to SIPRI, France exported conventional arms worth 50 million euros to Israel from 1996 until 2000<sup>19</sup>, including the deliveries of seven AS-565SA Panther helicopters and six THD-1040 Neptune Surveillance radar systems for the Saar- 4,5 fast attack naval craft<sup>20</sup>. Amnesty International' published an investigation report in February 2009, which showed that electrical components made in France were found in the rubble of buildings destroyed by the Israeli army during the Gaza war. The components were part of Hellfire AGM missiles manufactured by the U.S. company Hellfire Systems, a joint venture of Lockheed Martin and Boeing. France also sold specialised equipment for reconnaissance such as lasers<sup>21</sup>.

<sup>19</sup> Defense News, 13-19 May 2002

<sup>20</sup> SIPRI Arms Transfer Project, 2001

<sup>21</sup> David Cronin: Defying Rules on Arms Sales to Israel, Inter Press Service, available at: <http://ipsnews.net/news.asp?idnews=47025>

- The United Kingdom's arms trade with Israel is also considerable. On 21 April 2009, David Miliband, then Foreign and Commonwealth Secretary, affirmed in a Ministerial Statement that Israeli equipment used in Gaza 'almost certainly' contained UK-supplied components. During 2009 the UK approved arms export licences for military aero engines, small arms ammunition, unfinished products for air-to-surface missiles, and electronic warfare equipment; licenses were also approved for components of combat aircraft, electronic warfare equipment, naval radars, sniper rifles, unmanned vehicles, and helmet mounted display equipment<sup>22</sup>. This list does not include components sold to the US to build military equipment for Israel. As reported by the Campaign Against Arms Trade: 'In July 2002, the UK government approved the export of components for F16 fighters being made by the US company Lockheed Martin and sold to Israel. Then Foreign Secretary Jack Straw justified the sales saying: "The Government has judged that the UK's security and defence relationship with the US is fundamental to the UK's national security [...] Defence collaboration with the US is also key to maintaining a strong defence industrial capacity."<sup>23</sup> F16 fighter aircraft and Apache combat helicopters, containing UK manufactured components such as missile triggering systems, were used by the Israeli army during the wars in Lebanon and Gaza.
- Germany has recently been replaced by France as the largest European arms supplier to the Israeli army. According to SIPRI database Germany provided major conventional weaponry to Israel to the value of 765 million US dollars between 1996 and 2000, including two Dolphin Class submarines in 1999, another one in 2000<sup>24</sup>. In 2000 alone, German arms trade with Israel reached 170 million US dollars in military equipment, including torpedoes, armored cars and parts for the Israeli Merkava tanks used in the occupied Palestinian Territories<sup>25</sup>. Israel is currently Germany's seventh largest military client<sup>26</sup>. An exchange programme between Israeli and German officer cadets is known to exist which might however be of rather symbolic nature.
- Finland is also a major arms trading partner of Israel as it is the ninth most important provider of arms and ammunition and the second largest supplier of missiles technology after the USA<sup>27</sup>. The Finnish corporation Insta DefSec Inhad subcontracted anti-tank guided missiles to an Israeli arms manufacturer called Rafael Advanced Defence

**Disarming to prevent a crime: the decommissioners' case in the United Kingdom**

In the UK the law allows a defence where a person uses force in order to prevent crime, and in doing so uses only such force as it is reasonable in the circumstances. A war crime committed on foreign soil is capable of amounting to such a crime as it is an offence actionable in the UK.

During the Gaza war anti-war activists belonging to the Smash EDO campaigns destroyed equipment at a controversial EDO factory in the UK at the centre of an arms row. Calling themselves 'the decommissioners' they planned to put the factory out of action because they suspected it was making bomb release mechanism for Israeli F16 fighters. They made videos before the raid to declare that they were lawfully acting to prevent war crimes in Gaza.

A jury at Howe Crown Court accepted that defendants honestly believed that a war crime might be committed at some stage.

In doing so the jury recognized that: (i) the defendants intended to commit only such damage as was necessary to prevent such a crime; (ii) such damage as they intended to commit was reasonable; (iii) they believed such damage was capable of preventing such a crime being committed.

22 Campaign Against Arms Trade: Arming the Occupation, available at <http://www.caat.org.uk/resources/publications/countries/israel-1002.php#germany>

23 As quoted in Campaign Against Arms Trade: Arming the Occupation, available at <http://www.caat.org.uk/resources/publications/countries/israel-1002.php#germany>

24 SIPRI Arms Transfer Project, 2001

25 Peter Finn, Germany suspends arms sales to Israel, [www.washingtonpost.com](http://www.washingtonpost.com), 10/4/02

26 Campaign Against Arms Trade: Arming the Occupation, available at <http://www.caat.org.uk/resources/publications/countries/israel-1002.php#germany>

27 Bruno Jäntt, Finnish-Israeli Arms Trade Flouts EU regulations, the Electronic Intifada, 27 May 2009; available at: <http://electronicintifada.net/v2/article10557.shtml>



Systems. The whole trade on anti-tank missiles between Finland and Israel amounted to more than 4 million euros from 2002 until 2009<sup>28</sup>. Amnesty International reported that apart from these exports, Patria, a Finnish military contractor, has done service work and tests with Elbit Systems, one of Israel's biggest military manufacturers<sup>29</sup>.

## 4. The Use of Toxic Weapons in the Gaza Strip

Research coordinated by the New Weapons Research Group (NWRG)<sup>30</sup> found toxic and carcinogenic metals, able to produce genetic mutations, in the tissues of people wounded in Gaza during Israeli military operations of 2006 and 2009.

The research was conducted by laboratories in the Universities La Sapienza Università di Roma (Italy), Chalmer (Sweden) and Beirut (Lebanon).

The work is based on biopsies from wounds caused by weapons utilized in Gaza that do not leave fragments. The researchers compared the quantity of 32 elements present in the tissues through ICP/MS (a type of highly sensitive mass spectrometry). The research was conducted on 16 tissue samples belonging to 13 victims. The selection and classification of wounds was performed by doctors in the Shifa hospital in Gaza<sup>31</sup>.

Researchers pointed out that the presence of toxic and carcinogenic metals in the wound tissues put the lives of survivors in danger, and suggest the possibility of environmental contamination<sup>32</sup>.

The following elements were found in quantities well beyond normal: aluminium, titanium, copper, strontium, barium, cobalt, mercury, vanadium, cesium, tin, lead, uranium, barium, arsenic, manganese, rubidium, cadmium, chromium, zinc and nickel. Some of these elements are carcinogenic and can produce genetic mutation (mercury, arsenic, cadmium, chromium, nickel and uranium); others are potentially carcinogenic as they have been proven to have carcinogenic effects on animals (cobalt and vanadium); yet others are fetotoxic affecting either the embryo or the fetus in pregnant women (aluminum, mercury, copper, barium, lead and manganese). All metals found in amounts above normal levels have pathogenic effects in human respiratory organs, kidney and skin and affect sexual and neurological development and functions.

As stated by professor Paola Manduca, spokesperson of the New Weapons Research Group, genetics teacher and researcher at the University of Genoa '[...]The use of metals in the weapons utilized in Gaza had been hypothesized, but never demonstrated before. To our surprise, besides finding the metal components of amputating weapons, even the burns provoked by white phosphorus contain high amount of metals. Moreover, the presence of these metals in the weapons implies that they have been dispersed in the environment, in unknown amounts and range; they have been inhaled by the victim and by bystanders, thus constituting a risk for survivors and for people that were not directly hit by the bombing.'<sup>33</sup>

Previous studies conducted by the NWRG highlighted the presence of environmental contamination. As pointed out by the researchers, the risk of carcinogenic contamination is aggravated by the living conditions of the Palestinians. Because of the impossibility to rebuild housing, Palestinians are often exposed to wind and dust<sup>34</sup>.

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28 Jarmo Pykälä, "Panssarintorjuntaohjusten osia ydinaseyhtiölle," *Kansan uutiset*, 9 April 2009

29 Missä soditaan suomalaisilla aseilla," *Suomen Sadankomitea ry*, 2009

30 The NWRG is an independent committee of scientists and experts based in Italy, who are studying the use of unconventional weapons and their mid-term effects on the population of after-war areas. See more at: <http://www.newweapons.org/>

31 4 biopsies were taken in June 2006, during operation "Summer Rains", while the others were taken in the first week of January 2009, during operation "Cast Lead". All tissues were appropriately preserved and then examined by each of the three universities. Tissues belong to four types of wound: amputation, charred, burns, multiple piercing wounds by white phosphorus.

32 New Weapons Committee: Press Release, New weapons experimented in Gaza, population risks genetic mutation, available at: <http://www.brusseltribunal.org/pdf/NewWeapons110510.pdf>

33 New Weapons Committee: Press Release, New weapons experimented in Gaza, population risks genetic mutation, available at: <http://www.brusseltribunal.org/pdf/NewWeapons110510.pdf>

34 The former was published on 17 December 2009 and reported the presence of toxic metals in areas of craters provoked by the Israeli bombing on the Gaza Strip. The second was published on 17 March 2010 and reported the presence of toxic metals in hair samples of Palestinian children from the Gaza Strip area hit by Israeli bombings.

Image from a live webcam in Gaza during the Gaza war



Gaza Date and time

**Tuesday, January 13, 2009 at 4:10:12 AM**



## 5. Arms Import from Israel to EU-MS

Arms exports are not declared by the Israeli government. And arms imports from Israel to EU Member States are also not published under any form of common agreement within the EU either. Thus, the only source of information we can access at the moment is the SIPRI database which can only deliver restricted information as described above.

According to SIPRI's Arms Transfer Database (in US\$ m.)

Country	2001	2002	2003	2004	2005	2006	2007	2008	Total
Belgium	1	2	-	-	-	-	-	-	3
Cyprus		0	-	-	-	-	-	-	0
Finland	1	-	-	-	11	11	-	3	25
France	-	-	-	-	-	-	5	-	5
Germany	26	-	5	5	5	5	-	-	46
Greece	-	-	35	77	8	-	-	-	120
Hungary	-	-	-	-	-	-	-	5	5
Italy	-	-	-	-	-	5	6	13	24
Netherlands	-	-	-	-	-	0	30	22	52
Poland	-	-	-	1	2	6	11	11	29
Portugal	-	-	-	-	-	-	-	9	9
Romania	20	22	18	18	22	17	20	20	156
Slovenia	-	-	-	-	-	-	3	3	6
Spain	-	-	12	13	-	-	0	5	30
UK	-	-	-	-	-	2	38	-	40
<b>Total</b>	<b>48</b>	<b>24</b>	<b>70</b>	<b>114</b>	<b>48</b>	<b>46</b>	<b>113</b>	<b>91</b>	<b>550</b>
USA	141	107	92	87	53	30	13	-	521
India	33	61	85	149	123	134	60	18	663

The Israeli arms industry does not publish any concrete sales figures either. This might be so for various reasons. A Middle East security expert<sup>35</sup> outlines three of them: (1) in Israel, this export plays an important role for available foreign currency, (2) Israel exports a relatively large number of arms from problematic sources to problematic recipients, and (3) Israel has an interest in avoiding the provision of any data which might be used to track illegal re-exports back.

However, global figures about defence sales are announced (e.g. the announcement of record sales in 2006). SIBAT, the Foreign Defense Assistance and Defense Export Department of the Israel Ministry of Defense, stated<sup>36</sup> that Israeli foreign defense sales reached just over 4.4 billion US dollars. The same announcement declared India Israel's biggest customer whose purchases reached 1.5 billion US dollars, whereas the US only invested 1 billion US dollars in Israeli defence goods. These figures are, however not comparable to those published by SIPRI and the basis on which they are produced is also not publicly known.

<sup>35</sup> Personal communication of author with a Middle East security expert

<sup>36</sup> Cf. Yaakov Katz (2007) 2006: Israel defense sales hit record

The lack of regulation and transparency in the global arms trade from Israel is another very good reason for the adoption of the global Arms Trade Treaty (For the position of Israel and the on the ATT see Appendix 3).

**Security service (training cooperation) delivered to EU Member States by Israel:** So far not much information could be retrieved concerning security service training cooperation between EU Member States and Israel. Particularly, information about training delivered to EU Member States is hard to find. Whether the visits of a NATO Admiral to Israel just recently<sup>1</sup> and that of the NATO deputy secretary-general just a few days later<sup>1</sup>, are of a symbolic nature is hard to evaluate. Just at the time of the release of the UN's Goldstone report, Admiral Di Paola's official purpose for the visit is to study IDF tactics and methods to be utilized by ISAF and to discuss an upgrade of Israeli-NATO military ties.

## 6. Policy Recommendations

In light of the findings in this briefing paper, we call upon:

- **EU Member States to fully implement both the letter and spirit of the common position on arms trade.** The Common Position clearly excludes any possibility of arms trade between EU Member States and Israel because Israel has repeatedly violated both International Humanitarian Law and International Human Right Laws. For these reasons any kind of arms trade, including selling arms components or sending arms to a third country involved in arms trade with Israel, is illegal.
- **EU Member States and the EU to introduce transparent and comprehensive measures for monitoring arms funding.** Without the financial services of Export Credit Agencies and banks the arms trade would not be possible. All Member States of the EU should introduce systems for the publication of financial transactions relating to the arms trade at national level and such reporting should cover the public sector (Export Credit Agencies) and the private sector (banks). The Common Position on the arms trade should be revised to include this as a binding commitment.
- **EU Member States and the EU to provide more transparency.** As some third countries, such as Israel, do not publish reports about their arms exports, EU Member States should be encouraged to also publish information about their arms imports. A further revision of the Common Position could make this a binding commitment.
- **EU Member States and the EU to actively support an International Treaty on Arms Trade.** The absence of a legally binding international treaty on arms trade creates confusion and limits the scope and possibility of actions against the illegal arms trade.
- **EU Member States, other international actors, UN Treaty bodies and civil society to call for a full investigation of the use of chemical weapons during the Gaza war.** A Special Representative of the UN Secretary General responsible for investigating the use of chemical weapons could be appointed and given a mandate to conduct fact-finding missions in Israel and Palestine.

**Types of Weapons and Transfers Covered by SIPRI Arms Transfer Database**<sup>37</sup>

Types of weapons

Since publicly available information is inadequate for the tracking of all weapons and other military equipment, the SIPRI Arms Transfers Database covers only what it defines as major conventional weapons. The database covers the following:

- Aircraft: all fixed-wing aircraft and helicopters, including unmanned reconnaissance/ surveillance aircraft, with the exception of microlight aircraft, powered and unpowered gliders and target drones.
- Armoured vehicles: all vehicles with integral armour protection, including all types of tank, tank destroyer, armoured car, armoured personnel carrier, armoured support vehicle and infantry fighting vehicle. Only vehicles with very light armour protection (such as trucks with an integral but lightly armoured cabin) are excluded.
- Artillery: naval, fixed, self-propelled and towed guns, howitzers, multiple rocket launchers and mortars, with a calibre equal to or above 100 mm.
- Sensors: (a) all land-, aircraft- and ship-based active (radar) and passive (e.g. electro-optical) surveillance systems with a range of at least 25 kilometres, with the exception of navigation and weather radars, (b) all fire-control radars, with the exception of range-only radars, and (c) Anti-submarine warfare and anti-ship sonar systems for ships and helicopters. In cases where the system is fitted on a platform (vehicle, aircraft or ship), the register only notes those systems that come from a different supplier from that of the platform.
- Air defence systems: (a) all land-based surface-to-air missile (SAM) systems, and (b) all anti-aircraft guns with a calibre of more than 40 mm. This includes self-propelled systems on armoured or unarmoured chassis.
- Missiles: all powered guided missiles and torpedoes with conventional warheads. Unguided rockets, guided but unpowered shells and bombs, free-fall aerial munitions, anti-submarine rockets and target drones are excluded.
- Ships: (a) all ships with a standard tonnage of 100 tonnes or more, and (b) all ships armed with artillery of 100-mm calibre or more, torpedoes or guided missiles, with the exception of most survey ships, tugs and some transport ships.
- Engines: (a) engines for military aircraft, for example, combat-capable aircraft, larger military transport and support aircraft, including helicopters; (b) engines for combat ships, such as fast attack craft, corvettes, frigates, destroyers, cruisers, aircraft carriers and submarines; (c) engines for most armoured vehicles—generally engines of more than 200 horsepower output. In cases where the system is fitted on a platform (vehicle, aircraft or ship), the register only notes those systems that come from a different supplier from the supplier of the platform.
- Other: (a) all turrets for armoured vehicles fitted with a gun of at least 20-mm calibre or with guided anti-tank missiles, (b) all turrets for ships fitted with a gun of at least

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<sup>37</sup> Cf SIPRI (2009b) *Arms Transfer Database: Background information and explanations: Coverage*, accessed on 1 September 2010, available at: <http://www.sipri.org/databases/armstransfers/background/coverage>

57-mm calibre, and (c) all turrets for ships fitted with multiple guns with a combined calibre of at least 57 mm. In cases where the system is fitted on a platform (vehicle or ship), the register only notes those systems that come from a different supplier from the supplier of the platform.

The Arms Transfers Database does not cover other military equipment such as small arms and light weapons (SALW) other than man-portable air defence systems (MANPADS) and some categories of guided anti-tank missiles. Neither are trucks, artillery under 100-mm calibre, ammunition, components (other than radars and engines), or repair and support services included in the database.

#### Types of transfers

The SIPRI Arms Transfers Database covers all international sales and gifts of both weapons and the technology necessary for the production of weapons. To be included in the database, the following conditions must apply:

The transfer of equipment or technology must be from one country, rebel force or international organisation to another country, rebel force or international organisation. Weapons supplied to or from a rebel force or international organisation are included as deliveries to or from that group, identified under separate 'recipient' or 'supplier' headings.

- The equipment or technology must be destined for the armed forces, paramilitary forces or intelligence agencies of another country, rebel force or international organisation.
- The equipment or technology must have a military purpose. Systems such as VIP (very important person) aircraft used mainly for other government branches but registered with and operated by the armed forces are excluded. Weapons supplied for evaluation purposes are not included.
- The equipment or technology must be transferred voluntarily by the supplier. This includes weapons delivered illegally without proper authorization by the government of the supplier or recipient country but excludes captured weapons and weapons obtained from defectors.

#### **Brief descriptions of EU Common Military List categories**

(See OJ C 65 of 19 March 2009 for the full EU Common Military List)

- ML1 Smooth-bore weapons with a calibre of less than 20 mm, other arms and automatic weapons with a calibre of 12,7 mm (calibre 0,50 inches) or less and accessories, and specially designed components therefor.
- ML2 Smooth-bore weapons with a calibre of 20 mm or more, other weapons or armament with a calibre greater than 12,7 mm (calibre 0,50 inches), projectors and accessories, and specially designed components therefor.
- ML3 Ammunition and fuse setting devices, and specially designed components therefor.
- ML4 Bombs, torpedoes, rockets, missiles, other explosive devices and charges and related equipment and accessories, and specially designed components therefor.
- ML5 Fire control, and related alerting and warning equipment, and related systems, test and alignment and countermeasure equipment, specially designed for military use, and specially designed components and accessories therefor.
- ML6 Ground vehicles and components.

- ML7 Chemical or biological toxic agents, ‘riot control agents’, radioactive materials, related equipment, components and materials.
- ML8 ‘Energetic materials’, and related substances.
- ML9 Vessels of war, (surface or underwater) special naval equipment, accessories, components and other surface vessels.
- ML10 ‘Aircraft’, ‘lighter than air vehicles’, unmanned airborne vehicles, aero-engines and ‘aircraft’ equipment, related equipment and components, specially designed or modified for military use.
- ML11 Electronic equipment, not controlled elsewhere on the EU Common Military List, and specially designed components therefor.
- ML12 High velocity kinetic energy weapon systems and related equipment, and specially designed components therefor.
- ML13 Armoured or protective equipment, constructions and components.
- ML14 Specialised equipment for military training or for simulating military scenarios, simulators specially designed for training in the use of any firearm or weapon specified by ML1 or ML2, and specially designed components and accessories therefor.
- ML15 Imaging or countermeasure equipment, specially designed for military use, and specially designed components and accessories therefor.
- ML16 Forgings, castings and other unfinished products the use of which in a controlled product is identifiable by material composition, geometry or function, and which are specially designed for any products controlled by ML1 to ML4, ML6, ML9, ML10, ML12 or ML19.
- ML17 Miscellaneous equipment, materials and ‘libraries’, and specially designed components therefor.
- ML18 Production equipment and components of products referred to in the EU Common Military List.
- ML19 Directed energy weapon systems (DEW), related or countermeasure equipment and test models, and specially designed components therefor.
- ML20 Cryogenic and ‘superconductive’ equipment, and specially designed components and accessories therefor.
- ML21 ‘Software’ specially designed or modified for the ‘development’, ‘production’ ‘use’ of equipment or materials controlled by the EU Common Military List.
- ML22 ‘Technology’ for the ‘development’, ‘production’ or ‘use’ of items controlled in the EU Common Military List.

Differences in data collection between SIPRI’s Arms Export Database and the Annual Reports under the EU Code of Conducts (CoC) on Arms Exports

Data concerning arms exports and imports between EU Member States and Israel are retrieved from two different sources in this summary. First there are the annual reports under the CoC in which Member States have to publish the categories of licenses and weapons they licensed or exported during the course of the year.

Second, there is the SIPRI Arms Export Database where the Stockholm International Peace Research Institute (SIPRI) keeps track of arms exports of 172 countries around the world based on a fusion of public national data, questionnaires, international statistics, and specialist journals.

While the annual reports under the EU CoC only allow us to see what EU Member States exported to Israel, the SIPRI database provides data for export and import of arms in both directions. The crux of the matter, however, is that the data is not comparable. While the data which can be retrieved from the annual reports und the CoC is not extensive, it can be said to be much more detailed than those of SIPRI’s database. When taking a look at which countries exported weapons to Israel between 2001 and 2008 at all, for example, SIPRI only lists one European country (Germany), whereas the annual report lists 19 European countries for the same period of time.

Arms Export to Israel according to SIPRI<sup>38</sup> (in US\$ mil.)

	2001	2002	2003	2004	2005	2006	2007	2008	Total
Canada							1	1	2
Germany (FRG)	16	21	171	9	9	9	23	13	268
USA	108	302	107	835	1106	1098	944	510	5010
<b>Total</b>	<b>124</b>	<b>322</b>	<b>278</b>	<b>844</b>	<b>1115</b>	<b>1107</b>	<b>967</b>	<b>524</b>	<b>5280</b>

The reason for that is that both sources take different categories of weapons into account. While SIPRI's database only covers transfers of major conventional weapons systems and certain components, the range of goods covered in the annual reports under the CoC is far narrower (cf. Annex 1).

Arms Exports from EU MS to Israel according CoC<sup>39</sup> (in € mil.)

Member State		2001	2002	2003	2004	2005	2006	2008	Total
Austria	a	9	5	---	5	4	13	3	39
	b	0.186	4.286		0.725	0.25	0.477	0.12	6,04
	c				0.219		0.24	0.12	0,36
Belgium	a	6	17	13	---	4	5	18	63
	b	3, 692	13, 642	3,149		14, 233	0.512	5,409	40,63
	c	118 000				23 960			0,14
	e	2, 3							
Bulgaria	a	N/A	N/A	N/A	N/A	N/A	N/A	9	9
	b							2, 455	2,46
	c							0.249	0,14
Cyprus	a	N/A	N/A	N/A	N/A	N/A	N/A	1	1
	b								
	c								
Czech Republic	a	N/A	N/A	14	7	6	3	12	42
	b			10, 864	0.94	0.707	0.292	2,821	14,78
	c			1,803	0,821	1,289	0.261	2,443	6,62
Finland	a	2	---	---	---	---	---		2
	b	1,003							1
	c							45	45
France	a		198	131	122	133	144	112	840
	b		32,713	57,398	101,34 5	72, 219	89,140	126,27 1	479,08
	c	12,556			17,300	12,808	21,358	7,999	72,02
Germany	a	146	157	174	170	180	169	183	1179
	b	36,511	159,98 9	131,567	14,770	20,359	19,558	28, 371	411,13
	c	14,255		100,560	0.417	0.477	0.14	0.770	116,49
Greece	a	6	7	3	---	8	2	2	68

<sup>38</sup> SIPRI (2009a). *Arms Transfer Database*

<sup>39</sup> Sources are the respective annual reports (4th – 10th) according to operative provision 8 of the European Code of Conduct on Arms Exports.

	b		1,271	0.203		0.558	0.088	0.029	2,15
	c					0.558	0.088	0.029	0,68
Hungary	a	N/A	N/A	6	2	---	1	1	10
	b			0.446	0.255		0.041	0.010	0,75
	c			0.081			0.041	0.004	0,13
Italy	a	2	4	15	1	7	5	4	38
	b	1,795	0.008	2,621	29 373	1 302 815	1 023 105	451 103	7,23
	c	0.229	0.928	1,421	0.161	0.220	0.042	0.444	3,45
	e	3							3
Luxemburg	a	---	---	---	---	1	---	---	1
	b					0.039			0,04
	c					0.039			0,04
Netherlands	a	1	---	1	---	1	2	1	6
	b	4,310		0.010		0.007	0.393	0.166	4,89
	c					3,253			3,25
Poland	a	N/A	N/A	11	6	2	8	8	35
	b			5,273	4,064	0.567	6, 678	3, 850	20,43
	c					0.508			---
	b								
	c								
Romania	a	N/A	N/A	N/A	N/A	N/A	N/A	334	334
	b							16,668	16,668
	c							7,631	7,631
Slovakia	a	N/A	N/A	5	3	4	13	3	28
	b			0.777	4,130	0.719	0.358	0.070	6,06
	c					0.304	0.205		---
Slovenia	a	N/A	N/A	6	7	6	5	10	34
	b			0.498	0.628	0.255	1,550	1,669	4,6
	c			0.656	0.436	0.234	0.492	1,138	2,96
Spain	a	18	13	10	5	7	13	22	88
	b	1,314	2,531	0.734	0.176	0.953	1,110	4,365	10,23
	c	0.487	1,597	1,006	0.035	0.274	0.441	1,516	5,36
United Kingdom (6)	a	297	188	123	72	76	227	295	1278
	b	22,5	10,000	16,905	17,280	33,454	5,928	6,790	112,86
	c	1,51	2 170 000						---
<b>TOTAL EU (7) per destination</b>	a	<b>784</b>	<b>589</b>	<b>512</b>	<b>404</b>	<b>439</b>	<b>610</b>	<b>1 018</b>	<b>3338</b>
	b	84,361	224,441	230, 447	143,834	145,404	127,149	199,409	1155
	c	30,033	4,696	105,528	19,390	19,991	22,969	22, 237	224,84
	d	51	66	26	26	14	27	28	238
	e <sup>40</sup>	1b (2), 2 (35), 3 (12),	2(41) 3(57) 4(18)	2(18) 3(23) 4(1) 7(3)	1(1), 2(19), 3(23),	2(6) 3(10) 4(6)	1(1) 2(18) 3(19)	1(2) 2(13) 3(20)	1 (3) 1b (21) 2 (131)

<sup>40</sup> Cf. Annex 2 for criteria on which refusals are based.



		4 (1), 6 (1)	6(16) 7(4)		4(6), 7(2), 8(1)	7(3)	4(17) 5(1) 6(3) 7(3)	4(18) 5(3) 7(4) 8(1)	3 (164) 4 (67) 5 (4) 6 (25) 7 (19) 8 (3)
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– total exports per Member State and total EU exports to each destination (1)

(a) = number of licences issued (if available),

(b) = value of licences issued in Euro (if available),

(c) = value of arms exports in Euro (if available),

(d) = number of licence refusals,

(e) = criteria numbers on which refusals are based (the approximate number of times each criterion is invoked is indicated in brackets).

**Criteria on which Refusals are Based**<sup>41</sup>

**1 (3 times)**

Respect for the international commitments of Member States, in particular the sanctions decreed by the UN Security Council and those decreed by the Community, agreements on non-proliferation and other subjects, as well as other international obligations.

**1b (21 times)**

An export licence should be refused if approval would be inconsistent with, inter alia: the international obligations of Member States under the Nuclear Non-Proliferation Treaty, the Biological and Toxin Weapons Convention and the Chemical Weapons Convention.

**2 (131 times)**

The respect of human rights in the country of final destination

Having assessed the recipient country's attitude towards relevant principles established by international human rights instruments, Member States will:

(a) not issue an export licence if there is a clear risk that the proposed export might be used for internal repression.

(b) exercise special caution and vigilance in issuing licences, on a case-by-case basis and taking account of the nature of the equipment, to countries where serious violations of human rights have been established by the competent bodies of the UN, the Council of Europe or by the EU; For these purposes, equipment which might be used for internal repression will include, inter alia, equipment where there is evidence of the use of this or similar equipment for internal repression by the proposed end-user, or where there is reason to believe that the equipment will be diverted from its stated end-use or end-user and used for internal repression.

In line with paragraph 1 of the Operative Provisions of this Code, the nature of the equipment will be considered carefully, particularly if it is intended for internal security purposes. Internal repression includes, inter alia, torture and other cruel, inhuman and degrading treatment or punishment, summary or arbitrary executions, disappearances, arbitrary detentions and other major violations of human rights and fundamental freedoms as set out in relevant international human rights instruments, including the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights.

**3 (164 times)**

EU Member States will not issue export licences if the internal situation in the country of final destination is characterised by tension or armed conflicts if such export could provoke or prolong armed conflicts or aggravate existing tensions or conflicts.

**4 (67 times)**

Preservation of regional peace, security and stability Member States will not issue an export licence if there is a clear risk that the intended recipient would use the proposed export aggressively against another country or to assert by force a territorial claim.

**5 (4 times)**

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

**6 (25 times)**

The behaviour of the buyer country with regard to the international community, as regards in particular its attitude to terrorism, the nature of its alliances and respect for international law

**7 (19 times)**

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<sup>41</sup> Cf. Council of the European Union (1998) *European Union Code of Conduct on Arms Exports*

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

**8 (3 times)**

The compatibility of the arms exports with the technical and economic capacity of the recipient country, taking into account the desirability that states should achieve their legitimate needs of security and defence with the least diversion for armaments of human and economic resources.

Member States will take into account, in the light of information from relevant sources such as UNDP, World Bank, IMF and OECD reports, whether the proposed export would seriously hamper the sustainable development of the recipient country. They will consider in this context the recipient country's relative levels of military and social expenditure, taking into account also any EU or bilateral aid.

**Israel's and the EU's Position on the Establishment of an Arms Trade Treaty (A/62/278)**

“Israel [Original: English] [26 April 2007]

1. Israel supports the imposition by States of strong and responsible controls on the import, export and transfer of arms. In our view, such sales and transfer of arms should be carried out with the utmost prudence and responsibility in order to prevent such arms from finding their way into the hands of irresponsible recipients and end-users, be they States or non-State actors. A robust mechanism for the control of such arms sales and transfers is necessary in the light of, inter alia, the dangerous phenomenon of the transfer of arms to terrorists, which has the power to destabilize regions, exacerbate conflicts and threaten global stability.

2. In this context, it is the position of Israel that the primary responsibility for the establishment and implementation of an effective and responsible system to control sales and the transfer of arms rests upon each State. Israel has, for many years, exercised strict control over arms exports through a comprehensive export control mechanism. In our view, any endeavour to reach a universally agreed standard in this field should not diminish States' responsibilities in carrying out this task.

3. Regarding the arms trade treaty initiative, Israel remains to be convinced that an arms trade treaty could indeed provide a commonly agreed standard that would enhance the level of care exercised by States in the sale or transfer of arms. Our questions stem from the nature of this initiative, which aims simultaneously at a legally binding instrument and at a universal process. It may prove very difficult to adopt an agreed legally binding standard that would, on the one hand, reflect responsible and robust norms and, on the other hand, be agreeable to States with varying levels of control of arms. An agreement that would reflect a very low common denominator may be counterproductive to the goals set out in the arms trade treaty initiative.

4. In discussing the arms trade treaty initiative, an appropriate balance should be achieved between any global instrument that aims to control exports, imports and transfers of arms and the sovereignty of States, their legitimate military needs and the need to ensure that weapons and military equipment do not reach untrustworthy hands. Furthermore, consideration should also be accorded to the possibility that such a treaty could be politically abused against States that seek to obtain arms legitimately for purposes of self-defence, as well as the possible hindrance to legitimate trade in military material.

5. As Israel abstained in the vote on resolution 61/89, its position, as enumerated above, should be viewed as a call for prudence with regard to the arms trade treaty initiative, rather than an objection to the application of a robust and responsible control of the sale and transfer of arms by States.”<sup>42</sup>

**Comment [M1]:** Follow up with questions to Israel

“Germany (on behalf of the European Union) [Original: English] [7 May 2007]

**Introduction**

1. The European Union attaches great importance to the development of a comprehensive, legally binding instrument for the import, export and transfer of conventional arms. The Council of the European Union in its conclusions of 11 December 2006 welcomed the formal start of the process towards the elaboration of a legally binding international arms trade treaty through the adoption of United Nations General Assembly resolution 61/89 on 6 December 2006.

2. The European Union is convinced that the United Nations is the only forum that can deliver a truly universal instrument and welcomes the strong support across all regions for this instrument. As a regional organization with an efficient multilateral export control mechanism, the European Union would like to share its experiences and views on feasibility, scope and draft parameters for a treaty covering the trade in conventional arms.

<sup>42</sup> UNGA (2007). *Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms*. Part I,15f

### **Feasibility**

3. Over the last decade, the European Union has developed a multilateral export control system for conventional arms, including ammunition. The European experience demonstrates the feasibility of agreeing on binding international norms without depriving States of their national prerogative to license or deny individual exports. The European Union believes that, based on existing responsibilities of Member States of the United Nations under relevant international law, there is solid ground for establishing binding international standards for the import, export and transfer of conventional arms on a global level. The European Union acknowledges the large number of existing relevant mechanisms at international, regional and sub regional levels in all regions.

4. The European Union feels that a binding universal instrument is not only feasible, but urgently needed. Since many different countries have developed significant arms production capabilities or acquired large stocks of arms, the traditional distinction between producers, suppliers and consumers no longer reflects the realities of the arms trade. It is therefore of the utmost importance to establish a universal and inclusive system assuring high basic standards governing the import, export and transfer of conventional arms. The European Union shares the view expressed by the United Nations General Assembly that the absence of such a system is a contributory factor to conflict, the displacement of people, crime and terrorism, thereby undermining peace, reconciliation, safety, security, stability and sustainable development.

### **Scope**

5. In considering the scope and draft parameters of an international instrument for the import, export and transfer of conventional arms, the European Union would like to offer the following details of the European Union Code of Conduct on Arms Exports in the hope that this will aid and inform the work of the group of governmental experts. In order to be effective, an international instrument needs clear definitions of the goods and transactions to be covered.

6. The EU Common Military List contains items ranging from firearms to components specially designed for military use and weapon platforms (armoured fighting vehicles, combat aircraft including helicopters, warships). It also includes equipment for their production, as well as software and technology for the development, production or use of the items mentioned. Input for drawing up the EU Common Military List is taken from relevant international arrangements (e.g. the Wassenaar Arrangement Munitions List).

### **Parameters**

7. The core of the EU Code of Conduct consists of a detailed set of criteria, which give guidance for licensing decision makers. In the present context, these can be summarized as follows:

- Respect for the international commitments of Member States, in particular the sanctions decreed by the United Nations Security Council and other international obligations;
- The respect of human rights in the country of final destination;
- The internal situation in the country of final destination, as a function of the existence of tensions or armed conflicts;
- Preservation of regional peace, security and stability;
- Legitimate security interests of Member States;
- The behaviour of the buyer country with regard to the international community, in particular its attitude to terrorism and respect for international law;
- The existence of a risk that the equipment might be diverted within the buyer country or re-exported under undesirable conditions;
- The compatibility of the arms exports with the technical and economic capacity of the recipient country.

8. The EU Code of Conduct does not deprive States of their right to manufacture, import, export, transfer and retain conventional arms for individual or collective self-defence in accordance with Article 51 of the Charter of the United Nations. The decision-making power about licensing or denying a transfer remains within national discretion.

9. The European Union's experience with developing a multilateral export control system for conventional arms points to the need for dialogue and mutual trust in making any system work.

In the EU context this includes a mechanism for sharing information on the approval and denial of transfers.

**Conclusion**

10. The European Union is committed to engaging in the future consultation process leading to a comprehensive, legally binding instrument for the import, export and transfer of conventional arms. The growing support in all regions is an encouraging signal to tackle the problems arising from the irresponsible and illicit arms trade. The experience of the European Union shows that international arms export control mechanisms can have a significant impact on security, stability and sustainable development. We reiterate our call upon all Member States of the United Nations to actively engage in the negotiations for an arms trade treaty.”<sup>43</sup>

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<sup>43</sup> UNGA (2007) *Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms*. Part II, 91ff