Arms trade from the EU

Secrecy vs Transparency

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INTRODUCTION

The EU Member States have declared that they are pressing for more restrictive and responsible arms trade. An EU Code of Conduct on arms export was agreed upon in May 1998. The States declare that they are determined to set high common standards and restraint in conventional arms transfers. By this the States have declared that they are willing to discuss their arms trade and their arms trade policies and guidelines, they have declared that they want this to be a political issue.

The arms trade of any one EU Member State is turning out to be a concern of the other Members. With the possible future tightening of the European Union this will become even more apparent. The arms trade has become of vital interest and concern for all countries together. In the light of the EU Code of Conduct and the political tightening of the EU it will in the future not be legitimate for one Member State to export arms to a country which others have declared not to be an acceptable recipient.

The States within the European Union are at present not obliged to be transparent in their arms trade, whether or not the export is intra-EU or to non-EU-countries. The arms trade is regulated by Article 223 in the Treaty of Rome which states that no member state shall be obliged to supply information the disclosure of which it considers contrary to the essential interests of its security. All questions regarding arms manufacture and arms trade are under national control. The arms trade is excluded from Community competence.

There has been a tendency in recent years among the arms industries in the EU Member States to co-operate in big projects and complete company mergers are becoming increasingly common. Both the industries and the politicians maintain companies must go together to survive competition from the powerful American arms producers. This makes it pressing for the political sphere to follow this development, with common guidelines and regulations for the arms trade in order to uphold political control of the export of arms.

Current controls governing cross-border defence projects do not prevent companies by-passing national export rules. Sources at the German company DASA, commenting on a collaborative venture with the French company Thompson CSF, said that new business arrangements would allow the parent companies to circumvent the political sensitivities involved in exporting some of the more controversial armaments by selling in compliance with whichever set of national laws are least restrictive.

It has become vital, for the different EU governments as well as its peoples, to gain better insight into the arms trade. Since the Member States are responsible for one third of the arms exports in the world, an initiative by them towards greater transparency and a more restrictive arms export policy could have a significant impact on the world arms trade. It would set an important precedent for the development of wider international controls.

It is essential for the different Member States, and their populations, to be aware of the other Member States' arms export regulations since they affect their own countries. The arms exports of one member State are not just an internal affair for that state but a common concern of all.

The Member States are moving towards a common approach to arms export controls. The public sphere must be kept informed in this development, there must be a constant debate so that the political objective becomes to establish a common policy at higher levels of restraint.

Which country's arms export regulations shall be used in the export of arms produced and developed in several countries? There is a need to get an overview of the differences and similarities in the EU Member countries' arms export regulations and policies.

In this report we want to study the concept of transparency in the arms trade. We want to get a picture of the different provisions for transparency in the EU States and find out which countries are the most transparent, and which are the least.

Without transparency arms export regulations and policies will fall flat. Without it there is no way to ensure that laws are effectively enforced. Declared national restrictive policies, the EU Code of Conduct and other regimes will just be big words and vague promises from the governments to the people unless there is transparency.
The States within the European Union can not afford being as little transparent as they are in their arms export. The days are over when the export of arms was a concern of only national interest. When the industries are changing and becoming more international, so will the policies. Public insight in the arms export is demanded, since public awareness on the consequences has and is increasing.

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We started our study by sending a letter with questions to the fifteen EU States and the six states which, in our judgement, are most likely to become new members of the Union. We sent the letter both to the governments (the Ministry in charge of arms exports) and to some non-governmental organisations (NGOs) in each country.

The questionnaire read as follows:

1. What is the decision-making process concerning the export of arms from your country like?
   1.1. Who gives the companies permission for the export of arms?
   1.2. What/who is the responsible department/minister for these decisions?
   1.3. Do the political parties in the parliament have any influence before permission for the export of arms is given?
   1.4. Do the political parties get information about the export of arms when the decision is taken?

2. What information about the export of arms is public?
   2.1. Is the total value of the export of arms from your country during 1995 and 1996 public information?
   2.2. Is a list of the recipient countries for your export of arms, including the size of the export, public information? Could you send us a copy of this information for 1995 and 1996?
   2.3. Is any other kind of information in your country regarding the export of arms made public? as for example: the total revenue of the export of different kinds of military equipment (which is made public in Sweden) the export of different categories of military equipment to each recipient (as in Norway) the decision-making process to approve export licences, mentioning the recipient, the number of systems and the value of the export (as in Finland)?

3. What is not public information?
   3.1. What are the reasons for you not to make certain information about the export of military equipment from your country public?

4. Are any changes in policy regarding the export of arms to be expected?
   4.1. Do you in your country have any plans to change your policy and become more transparent?
   4.2. Do you in your country have an on-going debate about transparency in the export of arms?

5. Copies of public information
   5.1. Could you send us public documents on the export of arms and military equipment?
   5.2. Could you send us public documents concerning the decision-making process on the export of arms and military equipment?

To the NGOs we sent some additional questions:

6. The companies
   6.1. Do the companies who make arms and military equipment provide information about their total export of arms and about deals in the making in press releases or in their annual reports?
   6.2. Could you give us any examples?

There are different forms of transparency, a state can be transparent in one stage of the decision-making process regarding the export of arms and more closed in another. What we have tried to find out is how transparent the different Member States are in the different stages of the export of arms to another country.

We have tried to divide the various provisions for transparency that exist in the Member States into categories. After presenting these, we give a picture of transparency in the arms export decision-making process in the fifteen Member States. We also present some basic information on different transparency regimes that concern the Member States, amongst others the UN Register on Conventional Arms and the EU Code of Conduct on arms export.

The focus of this study is on the fifteen Member States and information about the other six European states is very brief. We did not exclude Greece in our research, but since we have not been able to obtain any information about Greek arms export and provisions for transparency, Greece is not covered.
Apart from Greece, we did not receive any answers from the governments of Denmark and Portugal, but with other sources we have been able to give a picture of their policies.

The main aim of this report is to provide an overview of the provisions for transparency in the European Union Member States' arms exports, to compare the provisions for transparency and to see which states are the most transparent.

We have contrasted transparency in the EU States with transparency provisions in the USA. US transparency is far greater than that of any of the European States. And it is the American arms trade that the EU Member States declare that they are "competing" with.
TRANSPARENCY MEASURES

There are several aspects to the concept of transparency and some countries' provisions for transparency reach further than others. The most obvious transparency is whether there is any public insight at all in the decision-making process for arms export, so that there can be public debate about whether to export arms to certain states or not. Connected with transparency is the question of whether there are any channels for the parliament and the public to debate transfers, and whether it is possible for the opposition to influence the government on decisions on giving arms export licences.

There is no obvious connection between transparency and reduced arms export. But the more transparent the process becomes, the greater the possibility to collect and spread information on what consequences the arms export will have in the recipient country. Transparency will enable the public sphere to question the arms export policy carried out by the government.

3.1 Official guidelines

In having official guidelines for the export of arms a state is declaring what factors will be taken into consideration before granting a company permission to export arms to another state. The state is declaring what it finds important in its relations with other states. For instance, a restriction against exporting arms to a state at war indicates that the exporting state does not wish to take sides in the conflict or give further fuel to armed aggression. Most of the Member States have regulations on exporting arms to states which suppress human rights.

The French control on giving military equipment export permits is based on the principle of forbidding any export or licensed production without special authorization from the Prime Minister. The Prime Minister gives a prior agreement for the transfer after confidential consultation with the Interministerial Commission for the Studies of the Exportation of War Materials. The criteria used by the Commission for giving licences and export permits are not declared and French NGOs consider them to be based on commercial rather than political or ethical considerations.

This means that the political sphere and the NGOs cannot judge whether the Prime Minister has followed the political guidelines on arms export. There is no provision to question an arms export which the Prime Minister has approved. There are no real rules for the Prime Minister to follow and when an arms export to, for instance, a human rights violator is revealed, the Prime Minister cannot be forced, with the support of legislation or regulations, to motivate why the export has been allowed.

In several countries, such as Sweden, export permits and licences are granted on a case-by-case basis, ie a judgement as to whether export to a certain state will be in compliance with the guidelines or not. This makes it hard for, eg NGOs, to question arms export to certain countries in advance, even though there are publicly declared guidelines. When asking the government whether they will give export permits to a certain country or not, the answer will be that nothing can be said since decisions are taken on a case-by-case basis.

Where the export licenses are granted on case-by-case basis the government can make more immediate changes in its practices. When, for instance, the human rights situation is brutally changed or a war emerges in a country, the government can decide to stop issuing licenses to that country. In 1991 when the war started in Slovenia Sweden withdrew two export permits already granted to companies for the export of items to ex-Jugoslavia, this was before the international arms embargo had been declared.

There is a flexibility in the system. The ban on exports is not directed at a certain country but can be implemented whenever and wherever necessary. Also, when decisions are taken on a case-by-case basis, different aspects can be taken into account. The export of some types of weaponry, say small arms, might be stopped to a violator of human rights, even though that of other kinds of arms is allowed.

But for these restrictive changes in the issuing of licences to occur, the system needs to be transparent so information and knowledge can be exchanged between the government and the public sphere. Otherwise the case-by-case issuing of licences can be used by the government to take whatever aspects to the export into consideration they want, without considering public opinion.
In comparing the different Member States' regulations it is obvious that some guidelines are clearer than others. For instance, it is easier to see whether the Swedish government has permitted an export of arms that does not comply with the regulations than if the Finnish government has. The Swedish guidelines state that Sweden should not export military equipment to countries in which extensive and serious violations of human rights occur, whereas Finland restricts the sale of equipment that might be used to violate human rights. It is not clear in the Swedish guidelines what "extensive and serious violations of human rights" are, but for Finnish export to be stopped it has to be worked out both what "violations of human rights" means and whether the proposed items could be used for such violations in the recipient country.

For transparency in the arms trade, it is important that the governments' guidelines are clearly defined so that they will mean something and not just end up in a discussion of their interpretation. The public sphere must have the opportunity to question whether the government has been following guidelines set by parliament.

3.2 The MPs possibility to participate in the decision-making process

The export of arms is a political issue and thus should be discussed in the parliament. If the Members of Parliament (MPs) participate in the decision-making process the issuing of export licences will be treated as the political issue it is. Then the democratically-elected MPs can discuss whether a proposed export would be in compliance with the official guidelines. If the decision-making is up to the whole parliament, arms export will be more in compliance with the people's interests. If the decision-making process is handled like this, there will necessarily be more debate and discussions on the issue.

Parliamentary scrutiny is important in so far as it can act as a deterrent against bad decisions being taken by officials and ministers behind the backs of parliament and the public.

3.3 Annual reports on the export

The most obvious way for the public to get information on their country's arms export is through the political debate - whether it is an issue discussed in the media or not and whether it is possible to question arms export approved by the government.

It differs in the member countries whether there is an annual report on the arms export that is public or not. An annual public report is, in our view, a minimum way of getting information on the arms export into the public sphere.

Another way for information on arms export to reach the public sphere is in public debate in the parliament, so it is possible to follow the debate and see what stance the political parties take on the issue. The public sphere must have the opportunity to put questions to the decision-making instance on arms export, so it is possible to affect the decision-making.

In some states both the MPs and the public are given information on arms export retrospectively in annual reports, but not in most countries. The most usual procedure is that the MPs are shown this report but the contents are confidential. The content of the reports is varying, some are quite informative and detailed. In some states the government does not really present an annual report, but just an aggregated figure on the value of the arms export during the previous year, not divided geographically or with specifications on the types of arms.

An annual report provides no real opening to influence ongoing arms export but it provides an instrument to criticize the government, to see if export is in compliance with the official guidelines and if the recipient states match the guidelines.

As a comparison, the US Department of State and Department of Defense are (under the Foreign Military Sales Act of 1961) required to set before Congress a report on Authorized U.S. Commercial Exports, Military Assistance and Foreign Military Sales and Military Imports. This Report gives comprehensive details of US arms exports, including a description of each destination country, the value of the export, the number of items exported and a description of the kinds of items transferred. 4

3.4 Transparency before the issue of a licence

The most important stage to make information public would be before a company has started their marketing efforts and their dialogue with the government when they wish to tender for a contract. That is because it shows the state's foreign policy and what relations the state wishes to have with other states. It is right here where commercial and foreign policy confidentiality come into play. It is really at this stage controversial deals should
be discussed. Especially so if the government and the companies want to show credibility in their arms export policies. It is not easy to break an proposed arms deal when the company is already marketing the items in another state.

As a comparison, US legislation provides for prior notification to the Senate Foreign Relations Committee of all foreign military sales exceeding $7.5 million planned for the following year. This takes place on or before the first of February each year and the Committee may raise objections to individual contracts which are proposed. In addition, there is requirement on the government to provide 15 days prior notification to the full session of Congress of all proposed Foreign Military Sales in excess of $14 million to Nato countries and 30 days for transfers to all other countries. The Congress does not have to vote on these export licences and planned sales, it only has to vote in the case if it wishes to block a sale. In that case two-thirds of both chambers must vote against a sale. So far this has not happened, but it is important that this option exists, since the risk of a vote against a deal will disqualify some export licences from the start. The most controversial deals will not even reach Congress as it is unlikely they would be approved.

The limitation of the US system is that it is only government-to-government sales that are notified to Congress. All other sales are confidential for commercial reasons. In addition, the low dollar value of small arms means that significant exports of these weapons are not passed through the Congress in the decision-making process on permits.

3.5 Company transparency

Some companies are transparent about their arms exports and give information on contracts they have closed with other countries in, for instance, press releases. The companies may be more transparent than the governments in the some states. They may publish information in their annual reports which is much more specific than that published in the government's trade statistics.

There are examples from Spain. In their 1996 annual report the Bazan company mentions not only contracts already signed but also offers that had been made to different countries.

Other Spanish companies release news via their press departments on deals that are still being negotiated. This has made it possible for NGOs in 1994, 1995 and 1996 to find out about CASA's projects to export military aircraft to different countries, the Santa Barbara company’s negotiated sale of armoured personnel carriers and that Indra was trying to sell flight simulators to Indonesia. The Spanish NGO’s experience is that the least transparent sector of arms production is that devoted to manufacturing ammunition and small arms.

3.6 Statistical transparency

The availability of statistics varies from state to state. As noted above, some governments publish a public annual report on arms export. In Sweden the report gives figures on the total price of military equipment sold to each country, but it doesn’t specify in detail what has been sold. The trade databases in Austria, Germany and Spain are relatively detailed but independent scrutiny of arms export is generally precluded throughout the EU by the lack of comprehensive data available. Information on a state's arms export might also, as in Finland, be available in the customs statistics.

There are some international statistics in existence, such as the EU's EUROSTAT and the UN trade register. The information in EUROSTAT (intra and extra European Union statistics) in the one available category for arms (9301) is very limited. Just a few states have provided data and that not at all specific. The UN trade register had a category (SITC 981) regarding arms and ammunition, armoured fighting vehicles, bombs, mines, missiles and weapons, but the last issue of this register was published in 1994. The data here was much more specific than in EUROSTAT, but again, not all states contributed data.
In the period 1993-1997 the United Kingdom was the third biggest arms exporting country in the world, France fourth, Germany fifth, the Netherlands seventh, Italy eighth, Spain tenth, Sweden fourteenth and Belgium the eighteenth.\textsuperscript{11}

In 1997 the United Kingdom exported major conventional weapons worth US$ 2631 million, France US$ 3343m, Germany US$ 569m, the Netherlands US$ 504m, Italy US$ 408m, Spain US$ 639m, Sweden US$ 273 m and Belgium US$ 93m.\textsuperscript{12}

For a more detailed analyses of the EU Member States arms trade in practise see the report "The flow of arms from EU-members" published by the Swedish Peace and Arbitration Society in 1997.

In the same period the US ranked number one on the Sipri list of the 30 leading suppliers of major conventional weapons and in 1997 the US exported for 10 840US$m.\textsuperscript{13}

Among the states about to join the EU in the period 1993-97 the Czech republic ranked number thirteen, Poland twenty-two and Slovakia twenty-four. In 1997 the Czech republic exported for US$19m and Poland for US$18m. There was no available data for Slovakia that year.\textsuperscript{14}

As will be shown below, there is a great discrepancy in the transparency in the arms trade between the different EU members and the United States. The biggest exporter, USA, is more transparent than several EU states. The most transparent country in the EU, Finland, is not on the list of the 30 leading suppliers of major conventional weapons.

4.1 Austria

The licensing authority is the Ministry of the Interior in consultation with the Ministry of Foreign Affairs, the Ministry of Defence and the Federal Chancellery.

The criteria that have to be considered before issuing an export licence include that no export shall be permitted to regions in conflict or dangerous tension and to where gross and repeated violations of human rights imply risk that the items exported might be used to suppress human rights.\textsuperscript{15}

In March every year the government reports arms exports of the previous year to the Council for Foreign Affairs. The exports are divided in categories of products and geographical regions of destination. The Federal Chancellor, the Vice-Federal Chancellor, the Chairman of parliament and the Secretary General of the Ministry of Foreign Affairs have seats on the Council as well as the leaders of the main political parties. But even though there are some MPs on the Council, it is not a parliamentary commission. Parliament is thus not informed. The information given is very broad but not public.\textsuperscript{16}

In this report to the Council for Foreign Affairs only what is defined as war-materiel is listed. This means that some exports are not reported to the Council, for instance pistols and rifles. These kinds of material can be approved by the Ministry of Trade alone.\textsuperscript{17}

4.2 Belgium

The Central office for export licences, which is subordinated to the Ministry of Economic Affairs, is the licensing authority. They may consult the Ministry of Foreign Affairs and the Ministry of Justice.

Licences for the export of arms will not be issued to a country engaged in civil war or which have serious internal tensions that could turn into armed conflict, to a country under a government that carries out terrorist actions or is engaged in drug trade, or to countries that do not respect end-use certificates.\textsuperscript{18}
In 1991 a law was enacted in Belgium relating to the import, export and transit of different kinds of military goods. One of the provisions of this law obliges the government to submit an annual report to Parliament on the application of this law. However, this is confidential and the information given of a general nature. Business information or figures per country are not made public. Destination countries are not specified. The report specifies the value of the arms exported to regions of the world, and the value of arms under different categories of equipment.

In their answer to our questionnaire the government writes that there will be provisions set up for them to report to Parliament on the way which the law that regulates the export of arms and military goods is applied. It is unclear what this really means. If Parliament will just get an annual report or if there will actually be provisions for dialogue and changes in the government's interpretation of the export regulations.

4.3 Denmark

The Ministry of Justice is the licensing authority. They consult the Ministry of Foreign Affairs and the Ministry of Defence. Every application for a licence is dealt with on a case-by-case basis.

Danish guidelines state that Denmark should not export arms to countries at war, to areas of tension, or countries were human rights are violated.

The Minister of Justice decides personally on export licenses after the decisions are prepared by officials at the Ministry. In the decision-making process advice from the Minister of Foreign Affairs is essential. The Minister of Justice is not bound to account for sales to Parliament and there are seldom questions about arms export raised in Parliament. When politically very sensitive transactions are at stake the parliament is, as an exception, consulted in advance.

4.4 Finland

The Ministry of Defence and the Government grant licenses on the export of all major items belonging to categories 1 or 2 of the International Munitions list. The policy is that all applications are considered on a case-by-case basis.

The whole government takes decisions on export licences for all controversial deals exceeding the sum of half a million Finnish marks. For non-controversial deals, for instance to Western European countries, and for deals worth less than half a million Finnish marks, the decision on export licences is taken by the Defence Ministry alone and on a secretive basis.

In assessing licence applications the government states that it analyses the situation prevailing in the recipient country, especially with regard to human rights, including the attitudes of other states vis-à-vis the recipient country. It also states that if the item to be exported, by virtue of its characteristics and significance, will not lead to, or will in all likelihood not be used in, violations of human rights, in offensive armed action or other comparable, unacceptable purposes in or outside the recipient country, a licence may be recommended.

The whole government decides on arms exports and is not obliged to account for sales to Parliament. In the Government there are at the moment five political parties represented and all decisions are discussed in advance in the parties' own subgroups. If the political parties want information about the export of arms after the decisions are taken they can obtain it through constitutional channels. In Finland almost all government decisions are made public and therefore also arms export decisions. Thus a controversial deal with Turkey this year was published on the Governments own site on the Internet.

The Foreign Affairs Committee in Parliament gets only some information directly from the government. MPs that are interested can, however, require information and it will be supplied immediately. There are no mechanisms for a regular notification to Parliament on exports which have taken place, but the idea is under consideration. Information is only given to Parliament, the MPs and the Foreign or Defence Committees upon request.

The individual application for an export license from a company is public once the application has come to the Ministry of Defence and is put into the government database. All letters that are sent to the Ministry can be seen in the database. As soon as a decision has been taken it is public, all details regarding the export licences are public.

This transparency in the arms export is by some considered to be disadvantageous commercially for the companies. The government therefore intends to publish an annual report, starting in 1998. This report will have
the same structure as the Swedish yearly report. The aim is to minimise the possibility to identify Finnish companies.26

There have been a number of other proposals for changing the system, to make it less transparent. The idea mostly pushed for is to take the decision-making power from the whole of the government and to give it to the Defence Ministry, which would then inform Parliament about arms exports on a yearly basis. The government should provide guidelines to the interpretation of regulations for the Defence Ministry or whatever authority will issue the licences. There is an on-going debate concerning this. The Social Democratic Party, which is currently in government (and has been for a long time), does not want to change the system. They want the whole government to be the decision-making power and transparency to remain at the present level.27

All exports can also be seen in the customs statistics, which are also public. There one can see total export, export to different countries by categories goods, value and number of exported items. All individual cases can be discussed separately. By law in Finland it is possible to read in the register where the applications for licences are filed, the Foreign Affairs Ministry's comments on the applications and if denied, the motivation.28

4.5 France

The Inter-Ministerial Commission on War Materiel (CIEEMG) on which the Secretary General of National Defence (of the Prime Minister's office) and representatives of the Ministry of Defense, the Ministry of Foreign Affairs and the Ministry of Economic Affairs, Finance and Budget have seats, authorises export licences.

There are no real guidelines that put restrictions on the export of arms. France applies a case-by-case approach.29 France is the only country in the EU that do not have a clause that questions the export of arms to states at war. The CIEEMG have their own working rules which, however, are not official guidelines. These refer to the respect for human rights in recipient state, the internal situation in the state, the risk of internal disturbances that might breach the peace and affect stability in the region.30

The CIEEMG decides all matters concerning arms export, the marketing, the start of negotiations and delivery. The government is not obliged to give Parliament information on arms export and does not have to ask for approval from Parliament. The Chamber Commission on Defence is informed confidentially afterwards on request under the heading "extensive transactions". The only information on arms export that Parliament is sure to get is that which is reported to the UN Register on Conventional Arms.31

The Parliamentarians sometimes put questions on arms export to the Prime Minister, which the General Secretariat of National Defence will answer in writing.32

Documents relating to arms sales have been classified since 1983. Only post-export biannual reports on arms sales are sent to the National Assembly and the Senate. These consist of aggregate information broken down by region and do not identify specific countries.33

There is discussion on changing the current system towards greater transparency. The idea proposed is that the Interministerial Committee should be expanded with the creation of a parliamentary office for arms transfers to which the Ministry of Defence would submit a detailed annual account of arms exports and the compatibility of these exports with the EU Code of Conduct. The Minister of Defence has undertaken to make a presentation to the National Defence and Armed Forces Committee of the National Assembly on France's measures for monitoring arms exports and to give account of these exports.34

4.6 Germany

The body that issues the licences for arms export is the "Bundesausfuhramt" (BAFA), an institution working under the political supervision of the Ministry of Economic Affairs. The Ministry of Economic Affairs consults the Federal Foreign Office and the Ministry of Defence on the export of arms for war and sometimes with other ministries.

The arms export policy of Germany has, in its constitutional provisions, officially been one of tight controls and restrictions. But NGOs claim that in practice the controls have gradually been eroded.35

The official guidelines for arms export are that Germany should not export arms to countries involved in armed conflict or where an outbreak of armed conflict is imminent.36

The government does not publish a list of exports, but merely an aggregated total overview of the export of "Kriegswaffen" ("arms for war") for a specific year, which is not specified countrywise. There is no information to be obtained concerning the exporting companies, not even when asked for by Parliament.37 The data that would
allow to identify specifics of individual contracts or deals are not published for reasons of disclosing "company secrets". All data released thus have to encompass the totals for at least three contracts. Government to government transactions not involving companies are disclosed to parliamentary questions (sales of surplus weapons).38

Information is generally given in response to parliamentary questions, but the information is subject to commercial confidentiality provisions with no specific details of the transactions being given. The answers will be in approximate numbers. Parliament and the parliamentary committees have no right to prior notification, nor power of objection to arms exports.39

The new German government has stated that in the future the government will provide the Parliament with a yearly report on the arms export.40

4.7 Greece
For this study we have not received any information on the situation in Greece.

4.8 Ireland
The Department of Tourism and Trade is the licensing authority. They may consult the Department of Foreign Affairs, the Department of Defence, the Department of Justice and the Department of Transport, Energy and Communications.

Ireland does not have an arms industry per se and Parliament is not notified on a regular basis of arms exports which have taken place. A practice has however developed whereby Ministers are routinely questioned about arms export policy and practice, as it relates to the export of surplus military equipment.41

4.9 Italy
The Ministry of Foreign Affairs is the licensing authority. They may consult the Ministry of Defense and the Ministry of Foreign Trade.

According to the 1990 law, general guidelines for export policy are provided by the Inter-Ministerial Committee on Exchange of Weapons for Defence (CISD), but 1994 it was replaced by the Interministerial Committee on Economic Programming (CIPE). The CISD defined and updated the list of countries to which restrictive arms sales apply. The CIPE has not since 1994 defined and updated the list of countries. Information about the activities of the CIPE must be communicated to Parliament, but the law does not say how and how much information should be provided.42

Export of arms is prohibited to countries which violate the main conventions on human rights and to countries in conflict where war may break out.43

Since 1990 the Italian government is obliged by law to produce an annual report on arms sales. In doing so it takes into account commercial interests and figures are aggregated. Three months after reporting to Parliament, the report is made public and it contained comprehensive details in a number of different formats. It detailed the value of military equipment exported by country destination and the value of equipment exported by specific companies, juxtaposed to the types of equipment supplied by specific companies and the value of specific exports to individual countries. In general it was possible to deduce from the figures published the nature and the value of the equipment which had been exported by certain companies to specific destinations.44

This report has become less and less transparent, since 1994 it is not possible to get all the above mentioned information from it. There are now two different reports, one presenting the countries as importers of Italian goods and the total amount of their import from Italy and the other report lists the Italian enterprises and the nature and kinds of arms exported, but not the destination.45 From the second list it is possible to see to what price each item has been sold. The value of the export, the company, the number of items and a description on the type of items is declared.46

For every arms export a Final Use Certificate is required, signed by the government of the country of destination and the Italian diplomatic authority.47

4.10 Luxemburg
The Licensing Office at the Ministry of Foreign Affairs is the licensing authority. They may consult the Ministry of Justice.

There is no manufacture of arms in Luxemburg and Parliament is not notified on a regular basis on arms exports which are proposed or have taken place. A law is under preparation on the import, export and transit of arms. This might heighten parliamentary awareness. The government's answer to the SPAS questionnaire was that Luxemburg has no military equipment nor arms production units and thus is not an export country for such items.

4.11 the Netherlands

The Ministry of Economic Affairs is the licensing authority and they may consult the Ministry of Foreign Affairs and the Ministry of Defence. Applications for export licenses are judged on a case-by-case basis.

The government guidelines states that there should be careful scrutiny of sales to sensitive regions, especially where the recipient is involved in armed conflict and if the recipient uses the arms to repress the population. While these guidelines represent the official policy, the government has always stressed that decisions are taken on a case-by-case basis.

In late 1996, following an agreement between the Foreign Minister and the Minister of Economics, the Government began the practice of informing Parliament of commercial military exports which have taken place in the preceding six months. Twice a year Parliament is confidentially informed in written reports on arms exports to non-Nato countries and MPs can ask questions on these reports behind closed doors. Every six months the Ministry of Foreign Affairs provides the parliamentary Committee on Foreign Affairs with information on the value of export licences per non-NATO country.

Since February 1998 there is a new information system. The more detailed confidential information to Parliament will continue, but there will also be an annual public report covering the previous year. This report will also give information on export to Nato countries. Two overviews will be given, the first on the value of exports to different countries (when above Hfl.100 000) and the second on the value of the export of different categories of weapons. A closed letter is also sent to the Foreign Affairs Committee in the Parliament containing details of the value of exports to specific country destinations; all MPs are, however, allowed access to this information.

The Dutch government has stated that in the future there will be some provision for parliamentary scrutiny of arms deals prior to licences being granted. The Foreign Affairs Committee is to be notified in advance of the granting of licenses for the export of government-owned surplus defense material. Surplus material accounted for 50% of all arms exported from the Netherlands in 1997. The Committee has to reply, agreeing to the sale, or raising objections to the proposal. It is unlikely that any proposed sale would proceed were it criticised by the Committee.

4.12 Portugal

The Ministry of Defence (General Directorate of Defence Armaments and Equipment) is the licensing authority, in consultation with the Ministry of Foreign Affairs. The Ministry of Foreign Affairs provides updated information to the Ministry of Defence about destinations of concern to which export might be prohibited. But no guidelines or official policy statements which present the criteria for arms export decisions are available from the Portuguese Government. The Portuguese Parliament has no role in the decision-making process regarding the arms trade.

4.13 Spain

Applications for export licenses are directed to the Inter-Ministerial Regulatory Board on Foreign Trade in Defence or Dual-Use Material (JIMDDU). There is co-operation between JIMDDU and the Department for Foreign Trade and the Customs department.

A decree from 1988 contains a note of some criteria used by the Spanish licensing authority in deciding whether or not to grant a licence. Exports are prohibited to countries at war and/or countries identified with human rights violations.

In 1986 the Spanish government declared information on arms export to be confidential under the Official Secrets Act. Only the parliamentary Secret Matters Committee, comprising three MPs, can question the government about Spanish arms export policy on a confidential basis. During the annual budget meeting of the Ministry of Economy and Finance general data on arms exports is provided. This gives the value of the exports and the
countries of destination. There is no information on the exporting companies and the nature of the supplied items.\textsuperscript{56}

But the system has changed a bit recently. The parliament has voted in favour of a resolution to increase transparency in the arms trade. The government has committed itself to publish an annual report on Spanish arms export, the first report came out in February 1998 covering the export of arms in the period 1991-97. In July 1998 a report on the export in 1997 was published. In these reports the data on the companies and the nature of the supplied goods remains secret. The reports is divided in two parts which you cannot match to get a fuller picture. One part shows the total export value per country of destination and the other part lists the total amount of items exported to the country of destination.\textsuperscript{57}

4.14 Sweden

The National Inspectorate of Strategic Products (ISP) is the authority which exercises control over the manufacture and exports of military equipment. The authority is obliged to submit cases of principal significance or which are otherwise important for consideration by the Government. Export licence applications are judged on a case-by-case basis. There are consultation procedures with the political section of the Ministry of Foreign Affairs and the Ministry of Defence. In all uncertain application cases a group of MPs is consulted and they may also recommend whether to allow export or not.

Since 1971 guidelines have been subject to parliamentary inquiry. The government guidelines express principles which are to be applied when assessing applications for permits to export military equipment. This export is divided into two categories, military equipment for combat purposes and other military equipment (for example military radar equipment). The government should not issue an export permit for equipment for combat purposes to a state which is involved in armed conflict with another state, a state involved in an international conflict that is feared may lead to armed conflict, a state in which internal armed disturbances are taking place or to a state in which extensive and serious violations of human rights occur. Regarding other military equipment, an export permit should be granted to countries not engaged in armed conflict with another state, those which are not subject to internal armed disturbances or where there are no extensive and serious violations of human rights.\textsuperscript{58}

Since 1985 the Swedish government has produced an annual report on arms sales and transfers. This includes information on the value of exports of the various categories of military equipment. It shows the total value of exports to each country, divided into the two different categories (“military equipment for combat purposes” and “other military equipment”). Information on the number of licensed production arrangements, co-production arrangements and military training is also given, as well as the approximate sums of the export of major defence companies. This report is then presented in Parliament and followed by a debate.\textsuperscript{59}

The authority in charge of issuing the export licences, the National Inspectorate of Strategic Products (ISP), provides a parliamentary council with a notification of arms export. This council, the Export Control Council, which consists of representatives from all the parties that are currently represented in Parliament, is summoned on the initiative of the Armaments Inspector, the head of the ISP. At its monthly meetings the Council is given the opportunity to take a stance in all principally important cases and representatives of the Foreign Affairs Department and the Defence Department attend the meetings to put the Government's views on the recipient countries and the proposed exports security policy implications. The Export Control Council receives reports on the decisions taken on export the during previous month.\textsuperscript{60}

The Council can ask for the details of particular exports and, where there are concerns, can raise objections to individual exports. These objections are not binding on the Government or ISP, but it has never gone ahead with licensing exports to which a majority in the Council has objected.

The advisory opinion of the Export Control Council is also sought at a preliminary stage, before a company has seriously started its selling campaign. Continuous information is also given on cases regarded as especially controversial. In such instances the Council members may put forward their questions and demands. No decisions are made in the Council and wide majorities are striven for when advising. After consultation with the Council, the NISP makes the decision on a case-by-case basis. Cases of a special importance are referred to the government. The Council can also be consulted in the assessment of whether the Armaments Inspector should hand over a case to the government.\textsuperscript{61}

4.15 the United Kingdom

Licences to export strategic goods are issued by the Secretary of State for Trade and Industry and the Export Control Organisation. All relevant individual licence applications are circulated by the Department for Trade and Industry (DTI) to other government departments with an interest, as determined by them in line with their policy...
responsibilities. These include the Foreign and Commonwealth Office, the Ministry of Defence and the Department for International Development.

The British government has established new criteria for the export of arms. The new criteria are to be applied to all countries, and case-by-case consideration is given to all applications. Under these criteria the Government will not issue an export licence if there is a clearly identifiable risk that the proposed export might be used for internal repression or international aggression, or may affect regional stability.64

Before the new Labour government came into power there was no parliamentary involvement in the arms trade, and there were no mechanisms by which the government and Parliament could debate the issue. However, the present government has announced new legislation on this issue. Much of the current practice on disclosure in the United Kingdom dates from 1992 when the Scott Inquiry was launched to probe allegations that Ministers of the previous administration had misled the Parliament over defence equipment exports to Iraq during the mid- and late 1980s. Since then the government has sought to publish on an annual (latterly a biannual) basis, information as to the numbers of licences granted for the export of arms, under the Military List classification, by country destination, but there have been problems with these lists. For example: category ML 10 covers equipment ranging from combat aircraft to parachutes making it impossible to identify the nature of the equipment exported.63

In November 1997 the Foreign Minister stated that to ensure full transparency and accountability to Parliament, the Government would report annually on the state of strategic export controls and their application. The Government will also inform Parliament of any changes in the criteria.65

In 1995 the Department of Trade and Industry (DTI) began to issue statistical summaries on licences granted. Three such reports were issued, relating to 1993, 1994 and 1995 respectively. In 1996 the DTI issued the first biannual report relating to the first six months of 1996. In March 1998, after a 15-month delay, information for the second half of 1996 was provided. These last two reports also include reports on denials of licences. The data in these reports is aggregated.66

The MPs can ask the government questions about licences for arms export. The information they get is limited to how many licences have been granted for any item, unspecified, of equipment according to the military goods list of the Wassennar Arrangement.67

There is a tendency for the Labour government to be more willing to give details of licences granted than was the previous Tory government. One difference is that the Labour government more seldom uses the right the government has, according to the constitution, to withhold information by claiming that it would be a disproportionate cost to provide it, or on the grounds that it has no public interest.68

The British government has stated that it will publish an annual report on the arms export during the spring of 1998, but it has not yet come out. There are currently discussions on what the report should contain and how detailed it should be. The Foreign Office wants it to be detailed whilst the Ministry of Trade does not. It can turn out to be the most comprehensive report in the EU, and thus put pressure on the other states to follow suit.69

4.16 EU-candidate States

We have only limited information on the EU-candidate States that we have included in this study. The information is mostly based on their answers to our letters with the questionnaire.

**Bulgaria**

The MPs have no influence on export permission and they are not informed of deals, neither before nor after. An interdepartmental council issues export licences.

**The Czech Republic**

Licences for arms export are issued by the Ministry of Trade and Industry. The total value of the Czech arms export is public, it is divided into some main recipients and the biggest exporting companies are mentioned. Information for the previous year is published in the media. The political parties have no influence in the decision-making process, the Ministry is the executive power.69

**Estonia**
Estonia has replied to our questionnaire stating that the country is not an arms exporter.

**Hungary**

Arms and military export is licensed by the Ministry for Industry, Trade and Tourism under supervision of the government, based on information from a working group of experts. According to the Government Decree 48/1991(III.27.) Article 10 the Committee that decides on the issuing of export permits shall periodically, at least once a year, report on the implementation of the Decree to the National Defence, Foreign Affairs and National Security Committees of the National Assembly.

**Poland**

The export licences are issued by the Minister of Foreign Economic Relations.

**Slovakia**

It is the Ministry of Trade and Industry that issues the export licences, after approval of the government licensing commission. The available data is the total value of the arms export, no details are at all given. There is no parliamentary transparency in the decision-making at all.
5

THE UN REGISTER OF CONVENTIONAL ARMS

To reach a greater transparency in the arms trade and as a confidence-building measure to promote security, the UN General Assembly in 1991 created a register to which all states are asked to contribute statistics on their trade in major conventional arms. The Register is supposed to function as a security regime which, on a regular basis, will be revised annually to further develop its function and scope. The aim is that the Register shall contain more and more information to give an increasingly full picture of the countries’ military transfers, holdings and procurement. It does not as yet contain any information on small arms and light weapons.

The importance of knowledge of a neighbouring country’s military capacity, not to be taken by surprise, was awakened during the Gulf War. An international consensus arose that the accumulation of conventional weapon systems can be a major factor in the outbreak, conduct and termination of armed conflict. Many states began to heighten control on their arms export and further, they wished to be able to control the international arms trade.

The Register’s aim is to further promote transparency as being a confidence- and security-building measure. The states do not have to put a ceiling on their military holdings or restrict their arms trade, they just have to submit information on their military equipment capacity. The Register does not aim to demilitarise the world. The Register fulfills its aim by its very existence - if the states will submit information to it.

The UN Register is to function as a security regime. There is no aim, as such, to restrict the arms trade, but with the information from the Register states can be reassured of their security so they may reduce their arms expenditures. It can be made clear whether two states are arming and a conflict can be prevented by, for instance, the UN reacting to it in time and instigating negotiations between the states.

During the cold war states wanted to frighten the enemy from starting a war by making it appear as though the state was in possession of a large force which would make it hard for the enemy to succeed in a confrontation, or that it would be extremely costly to attack. With the UN Register, where states openly declare their military assets, their “enemies” do not have to make an assumption about the other state’s military assets. Assumptions often turn out to be over-estimates and lead to armament when the states try to reach the balance of terror. With transparency, the states have an opening to trust each other and to start a dialogue.

Another aim of the Register is that the states, even those who have not done so in the past, have to put together some statistics on their arms trade, and they might have to try to get their trade more under control. Once the states have started to submit information to the Register they have this information, which they must handle within their own country as well. Thus transparency in the arms trade may spread to the public sphere.

The UN Register on Conventional Arms came into existence in 1991 through resolution 46/36 L in the UN General Assembly with 106 votes for, one against (Cuba) and eight abstentions. In its first year of functioning, 1993, 77 states submitted information on their arms trade. Among the states that submitted information were, according to Sipri, the 15 largest exporters and 11 of the 15 largest importers of arms.

To the fifth annual report 93 countries had replied as of April 1998. Sipri notes that there is also a greater willingness to go beyond the minimum reporting requirements.

The information to the Register is to be filled into pre-printed documents with columns. The Register lists seven different types of conventional arms and the information provided is the value of the export and the import in the different arms categories traded during the year, and to or from which states the a state has exported or imported. There is also space in the document to voluntarily submit information on the state’s holdings and procurement through national production, and for more detailed information on the traded goods. The conventional arms covered by the Register are: battle tanks, armoured combat vehicles, large-calibre artillery systems, attack helicopters, combat aircraft, warships, missiles and missile launchers.

Even though it is supposed to be easy for the states to fill in the documents, a number of states have difficulties with it. Some do not enter a zero when they have had no trade in an arms category covered by the register, which makes makes it appear that they are not fullfilling their commitment as signatories to the agreement. Some
developing countries have difficulty in collecting the data requested since they have no available statistics. Another problem regarding states in the developing world is that although they have quite an extensive trade in conventional arms, this will not appear in the register since their trade is in small arms. If a state is arming itself with these kinds of weapons, which can most certainly keep a war going, it will not be revealed with help of the Register.

Since the states in submitting information to the Register have different definitions as to when a transfer is carried out, the data in the Register is bound to be incoherent. The cross-checking function does not really work as it should.

The biggest lack in the transparency of the Register is the fact that it is totally voluntary to contribute data. As it is, the already most transparent countries are those which submit information.

Another problem is that the information in the Register is more than a year old, so it does not show quick changes in the arms trade. It makes it difficult for the international community to react and respond to a country's increase in armaments.77

The Register does not actually prevent states from arming themselves. Both Turkey and Greece are arming themselves up to some sort of balance of terror, although they both submit data to the Register. The Register does not say anything about the situation in Asia and Africa where a lot of countries are arming themselves excessively, but with smaller arms than those listed in the Register.78

In the long perspective the Register can have very positive effects on security in the world. When transparency increases, the importance to a state to see the arms trade and other military actions as a matter of self-interest can decrease, and so tension between states. It might turn out not to be a legitimate security interest for a state to arm itself, security does not come with arms but with the knowledge of other states actions and how the international community will react.
TRANSPARENCY AND THE US AND EU CODES OF CONDUCT

Transparency arrangements, whether national or international, such as the EU Code of Conduct and the UN Register, are in themselves important. They can contribute significantly to confidence-building, conflict prevention and restraint. They have great potential to contribute to international security.79

The US Code of Conduct on Arms Transfers

There is a proposed Code of Conduct on Arms Trade in the USA which has been adopted by the House of Representatives but not yet by the Senate.80

This US Code determines which countries are eligible to receive US military assistance and arms transfers in the next fiscal year. The President will have to provide the Congress annually with a list of countries which meet a list of criteria and are thus eligible to receive American arms. The President may at any time certify to the Congress that a country has ceased to comply with the criteria and hence all military assistance and arms transfers will cease. By presenting such a list the assumption is that allowing export is the exception from the rule and not vice versa. A country has to be “approved” for export to take place.81

There are some exemptions from the rule built into the proposed Code. The President may request the Congress for an exemption for a particular country because it is in the national security interest of the US to provide military assistance or arms. This request can be overturned if the Congress enacts a law disapproving it. The President may also exempt a particular country in an “emergency” when it is vital to US interest to provide assistance and arms. In such a case the President has to inform the Congress of the nature of the emergency, the type of assistance, the type of arms involved and the cost.82

The EU Code of Conduct on Arms Export

In May 1998 the EU Council of Ministers issued a Code of Conduct on arms export. The Code was taken as a Council Declaration, which is not so politically binding on Member States as is a Common Position, but does imply a political commitment. It is intended to set high common standards on arms export. It includes some measures to further transparency. The one positive thing with the Code not being legally binding but politically is that it is an already established fora for discussions on a regular basis.

In its Operative Provisions No.8 it states that each EU Member State will circulate to other EU partners in confidence an annual report on its defence exports and on its implementation of the Code. These reports will be discussed at an annual meeting held within the framework of the Common Foreign and Security Policy (CFSP). The meeting will also review the operation of the Code, identify any improvements which need to be made and submit to the Council of Ministers a consolidated report, based on contributions from the Member States.83

There will thus be no public annual reports in the framework of the Code, as was the aim at the outset of the process and which several countries wished. The information will not be available to the European Parliament, national parliaments or the public sphere. The effect of the Code being formulated like this is that there is no reference to public or parliamentary accountability at all. This means that the provisions for the annual review of the Code are unlikely to facilitate the achievement of greater transparency, as is articulated in the preamble to the Code.84

But since all the Member governments will have to make a report and give it to the Council, even those who have not made a report before, it might lead to some changes towards greater transparency in the EU. The MPs in both the national and the EU Parliaments can and will demand that the reports be made public. And there are several governments that want to make them public.

There are no requirements in the Code as to what the annual reports should look like and contain. Thus it might end up with, for instance France, submitting a report containing what they already make public i.e. the total figure...
of their arms export. Certainly other governments will put pressure on the unwilling to go a little further, since most states want to make the reports public.

Originally the UN Register of Conventional Arms was intended to be confidential, but after a while the information came out into the public sphere. The same might happen with the EU Members country reports. One of the most important provisions in the EU Code are the annual meetings to discuss the countries’ reports. The annual meetings can be just a presenting of the reports, but they could also develop into a real forum for discussion where countries explain their reports and defend their way of reporting every year. The small and more transparent states can come to put pressure on the others. But since the Code is largely a United Kingdom project (it was adopted during their presidency of the EU) it may well be the United Kingdom government which settles what discussions will actually be on the agenda of the meetings. As noted above, the United Kingdom is currently working on their own annual report. The transparency shown in this will have a great influence on the other Member States’ annual reports.

Another transparency measure that is presented in the Code is that the States will circulate, through diplomatic channels, details of licenses refused in accordance with the EU Code together with an explanation of why these licences have been refused. Before any Member State grants a licence which has been denied within the last three years by another Member State or States for an essentially identical transaction, it will first consult the Member State or States which issued the denial. If following consultations, the Member State nonetheless decides to grant a licence it shall notify the Member State or States which issued the denials, giving a detailed explanation of its reasoning. The Code shall encourage transparency between the EU Members in their arms trade with third parties. If, for instance, Sweden has decided not give an export permit to one country, referring to the Code, Sweden shall demand an explanation from, say France, who wants to take over the contract. It is stated in the Code that the decision to transfer or deny the transfer of any item of military equipment will remain at the national discretion of each Member State, in accordance with art. 223 of the Rome Treaty. According to the Code States shall keep denials and consultations confidential and not use them for commercial advantage.

The consultation procedures will not be multilateral despite strong support for it, French opposition resulted in a Code which requires only bilateral consultations. If, after bilateral consultations, the state decides to proceed with the licence it is only required to notify the member state which issued the denial. EU officials have suggested that some countries may pursue improved notification procedures on a unilateral basis, but France intends to block these efforts arguing that this would violate the spirit of the Code.

The decision to restrict consultation and notification of undercutting to bilateral exchanges carries with it certain potential dangers. Bilateral consultation between the Member States wishing to undercut and the Member State which issued the denial is unlikely to facilitate the development of a consistent approach towards sensitive end-users amongst the wider group of Member States. Because any decision by a Member State to go ahead and take up a licence denied by another will only be notified to the Member State which has issued the denial, undercutting is likely to take place virtually in secret. If and when details of undercutting eventually emerge, the net effect could prove divisive, possibly leading to a reduction in the number of denials issued and/or an increase in undercutting.

The provisions for consultation procedures might not provide a big change in transparency. There is nothing in the Code clearly stating what a denial is and the companies might get prior information from the government which will tell them whether or not they will get an export licence. Thus they will not apply for an export permit if they sense they will not obtain it. The importing countries might also learn how the different Member countries interpret the regulations and not seek to buy arms from the most restrictive countries.

The Code is not legally binding on the Member States, and there are no real provisions for transparency. It is stated in the Code that the States are determined to strengthen the exchange of relevant information with a view to achieving greater transparency, but this transparency will be on government, not public, level.

It is stated in the Code that it does not infringe on the right of Member States to operate more restrictive national policies. The States that have more restrictive national rules are allowed to maintain these. Some states might release to the public their own national reports on the Code. The German government has already stated that they will notify all other Member States if one country notifies Germany that they are considering undercutting them. However, this might not lead to greater transparency, but to the governments in the long run not issuing any denials (see above).

It is still uncertain how the Code will be used and read. It is up to the Member States to pledge for their understanding of the Code since nothing exists beyond the actual Code and its regulations. There are no documents or other informative material on the interpretation of the Code. The Code as it stands is less strict than
many of the various national regulations that already exist, and just as these are open to different interpretations, so is the Code.\textsuperscript{96}

The Code, as well as other international initiatives for transparency, should place a politically binding obligation on states to provide one another with information. Confidence is generated not only by the content of an information package, but by the fact that states are willing to provide information and that they have put themselves in a position where their arms export can be questioned. As with other declarations, the states have accepted that their sovereignty is not absolute.

The Wassenaar Arrangement is another transparency measure that is mainly concentrated to European States. It was established in 1995 and both Russia and the USA are members. The Wassenaar Arrangement aims to establish a mechanism for regular exchange of information and consultation regarding dual-use and arms transfers.

Members of the Wassenaar are obliged to submitt information on dual-use products but information on military equipment is given voluntary. The Wassenaar Arrangement seeks to contribute to regional and international security and stability by promoting transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies, thus preventing destabilising accumulations.\textsuperscript{97}

That which is new in the EU Code as a transparency regime, is that while the UN Register of Conventional Arms and the Wassenaar Arrangement aim at putting the focus on arms build-ups in different regions of the world, the Code focuses on the supply side in the arms trade. The focus is on those who contribute to the arms build-ups that threaten to enhance tension and conflicts. The object of the Code is to further more restrictive arms export from the EU states. The Code is the outcome of real political discussion. It provides a political forum for further discussion and work. The States have put themselves in a position where they have to defend themselves and argue for their arms trade policies and their interpretation of the Code.
SUMMARY AND CONCLUSIONS

The most transparent country in western Europe is Finland, which has a smaller export than many EU Member countries. The by far most transparent western state, with the largest arms export in the world, is USA.

In Sweden there is a parliamentary council with insight in arms exports and empowered to discuss and stop the issue of licences, it is part in the decision-making process on the export of arms. This Council meets on a regular basis which leads to these matters being constantly under discussion and new information is brought into the decision-making process. Controversial deals might be stopped in the public interest since these MPs are elected, even though they do not have to defend what they do in the Council in the public domain. The government does not have the sole right to information about arms exports, but has to inform the MPs on a regular basis. Arms export issues are on the political agenda in Sweden, with the public demanding information and the government having to defend why they sell arms to certain controversial destinations.

In Finland all information on the export of arms, the applications for licences, the licences granted and denied, are public information. Anyone interested can find it. If one knows what to search for, it is possible to find information on, for instance, applications for licences before they are granted or denied, which means that there is an opening to raise public awareness before the "case is closed" and controversial deals can be stopped. There is no limit to the possibility to raise questions and debate arms exports in Parliament. The information presented to the Foreign Affairs Committee in Parliament is quite limited, but those interested can search for additional information themselves and will then obtain accurate and valid information.

Public interest in arms export issues in Finland has been rather weak. During the last four or five years there have been 10-15 questions put forward by MPs to the government. However, recently arms export have become a legitimate political issue, able to raise public interest and debate. Questions of human rights and democracy in the importing countries have started to interest the public.

But along with the public becoming more interested, transparency has started to decrease. The customs statistics are being made less specific and less informative, before there was new data each month, this is no longer so. As noted above, the government is discussing introducing a yearly report on arms export and to decrease the current transparency. There is pressure from some political parties and industry to change the system to make it more efficient by taking decisions from the whole government and giving them to the Defence Ministry alone, or to some other authority.

The Swedish and the Finnish systems on arms exports licencing can be said to be complementary. Finnish exports are totally transparent and Sweden has provisions for procedures to give the MPs information on the arms export on a regular basis, in Sweden the MPs are a part in the decision-making process.

Another kind of transparency that exists in some EU States is the submission of an annual report on the arms export by the government to the parliament and the public. The level of transparency in these reports differs widely between the States. The Italian report used to be quite transparent but the level of transparency has decreased during the last years.

But no state within the EU is as transparent as the USA, and its annual report is far more informative than any of the European ones, even though the Italian report is quite transparent. The US Congress is more involved in the decision-making process than any of the European parliaments.

From the industries' point of view the most-used argument against transparency is that another State's advance knowledge of exports can make it possible for them to undercut deals. From the governments' point of view, the most common argument against transparency in the arms trade is that it is an internal state affair, stated so in the EU documents i.e. that a country needs to export arms to be able to maintain a strong defence industry, necessary to maintain its own defence and security.

The EU Member States face a world where there is only one superpower with a strong arms industry. The EU States want to raise their defence industries' capability to be able to compete with the USA. But does this aim make it impossible for the EU Member States to be more transparent? Do the governments in the Member States want to carry through arms exports that are against their peoples' wishes?
In Finland and the USA, where the transparency is fairly developed, MPs have not really used their option to vote against an export of arms. The American Congress has never voted against a proposed export\textsuperscript{100}, nor has the Finnish Parliament. But this could be because the controversial deals won't come up for consideration just because the parliaments would stop them. What is important is that these transparency provisions exist. They are basic to an informed, constructive and public debate on arms trade policies and afford the channels for the questioning of controversial deals. Public opinion can affect the decisions of the government and industry. Conditions in the importing countries can also be taken more fully into consideration.

Since it is Finland that is the most transparent country with a comparatively small export, this speaks against the most common argument against transparency used by the other EU States, that of course USA can afford to be so transparent since they totally dominate the market. Finland in no way dominates the market but still can afford to be much more transparent than the other bigger exporting states in the European Union. Sweden, which is a quite big exporter of arms, is also relatively transparent, which shows that you do not have to be either dominant (as USA) or as small as Finland, with comparably insignificant (although not negligible) arms export, to manage being transparent.

The Director of the Association of the Swedish Defence Industries, Dag Törnblom, stated in 1997 that the Swedish defence industry finds the current transparency fully acceptable. The defence industry in Sweden wholly accepts that export statistics are made publicly available, and that a Council of MPs is fully informed about exports and advises the export control authority in politically sensitive cases.\textsuperscript{101}

While Finland is the most transparent within the EU, France and Portugal without even publicly stated guidelines for the export of arms would be the least (with the possible exception of Greece who has chosen to not even answer the questionnaire this study is based upon).
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