



THE LIMITATIONS OF EUROPEAN UNION REPORTS ON ARMS EXPORTS: THE CASE OF CENTRAL ASIA

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I. Introduction

Each year since 1999 the European Union (EU) has published information on its member states' issuing of arms export licences and actual arms exports. These reports are intended as a means of monitoring harmonization between member states and their compliance with the EU's rules on arms exports—most recently defined in the 2008 EU Common Position.¹ Yet, while the amount of information in these reports has increased with each year, they have been put to only limited use.

This paper uses the example of Central Asia—that is, the five states Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan—to assess how the official data on export licences and actual exports contained in these reports can be used for monitoring exports of arms and military equipment. By attempting to determine both the general pattern of arms flows and the specific bilateral deals and relationships that are revealed by the published data, it allows an assessment of this transparency tool. By looking also at the cases where states have refused to allow exports, this paper permits an assessment of how rigorously and consistently the criteria agreed by all EU members for assessing export licence applications are being applied.

Central Asia provides a useful case study for this type of assessment. First, the small number of states in the region and the relatively small volume of arms, military equipment and training provided by EU member states to Central Asian states mean that it is possible to make a comprehensive assessment of all available data. Second, the internal situation in many of these countries—in terms of, for example, the respect for human rights and the risk of armed conflict—also makes the region an excellent sample to test harmonization of EU member states' export controls.² While the EU arms embargo on Uzbekistan, which was imposed following a massacre of civil-

¹ Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, *Official Journal of the European Union*, L335, 8 Dec. 2008.

² E.g. Turkmenistan and Uzbekistan are among the 9 countries judged to have the worst human rights conditions in 2010 according to Freedom House. Freedom House, 'Worst of the Worst 2010:

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SUMMARY

● All European Union (EU) member states are required to submit information on arms export licences and arms exports for inclusion in the EU annual reports on arms exports.

The example of Central Asia—Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan—shows that the data in these EU annual reports has only a limited utility for monitoring exports of arms and military equipment. The specific case of Uzbekistan, which was subject to an EU arms embargo between 2005 and 2009, shows that certain transfers of apparent concern have been reported but not investigated, while other transfers have not appeared in the annual reports.

Although Central Asia is not a major market for EU arms exports, the case highlights the challenges of using the data in the annual reports to assess the harmonization of arms export policies in the EU.

Specific steps can be taken to improve the annual reports and to extend their utility. These include: expanding the coverage of the annual reports to include more detail on specific transfers, including end-users; increasing parliamentary oversight at both the national and European levels; monitoring licensing arrangements for the production of arms and military equipment outside the EU; and reconsidering the role and purpose of EU arms embargoes and improving their monitoring.



ians in Andijan in 2005 by Uzbek security forces, was lifted in November 2009, events in Kyrgyzstan in 2010 have again drawn attention to the conduct of the state security forces in Central Asia.

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Section II of this paper outlines the EU framework for harmonizing the control of exports of arms and military equipment and describes the way in which the EU imposes arms embargoes. Section III presents the data collected from EU annual reports on licences and exports of arms and military equipment to Central Asia from EU member states, and also details the grounds on which export licences have been denied. Section IV looks at the specific case of Uzbekistan, detailing arms exports before the EU imposed an arms embargo in 2005 and examining suspected embargo violations. Drawing on the preceding sections, section V discusses the challenges of using data from the EU annual reports to monitor transfers of arms and military equipment. It also considers the difficulty of using the data from these reports to fully understand licensing decisions. The paper concludes in section VI with a series of recommendations for improving public and parliamentary oversight of exports of arms and military equipment from the EU.

II. European Union arms export controls

The EU Common Position³

Since the 1957 Treaty of Rome established the EU's predecessor, arms exports, along with other defence- and security-related issues, have been largely exempted from EU and European Community rules.⁴ However, since 1991–92, when the European Council adopted eight criteria against which EU member states agreed to assess their arms exports (see box 1), there has been a concerted effort to develop harmonized arms export policies among member states.⁵ These eight criteria were incorporated into the European Union Code of Conduct on Arms Exports (the EU Code of Conduct), which was adopted as a politically binding instrument by the Council of the European Union in June 1998.⁶ Member states must deny an export licence if the transfer is deemed to conflict with any of criteria 1–4 and must 'take into

the world's most repressive societies', 3 June 2010, <<http://www.freedomhouse.org/template.cfm?page=137>>.

³ This section draws on Bromley, M., *The Impact on Domestic Policy of the EU Code of Conduct on Arms Exports: The Czech Republic, the Netherlands and Spain*, SIPRI Policy Paper no. 21 (SIPRI: Stockholm, 2008); and Bromley, M., '10 years down the track: the EU Code of Conduct on Arms Exports', *European Security Review*, no. 39 (July 2008), pp. 11–13.

⁴ Treaty Establishing the European Economic Community (Treaty of Rome), signed 25 Mar. 1957, entered into force 1 Jan. 1958. The formal title was changed in 1992 to the Treaty Establishing the European Community and again in 2009 to the Treaty on the Functioning of the European Union. Article 223 of the original, 1957 text was renumbered as Article 296 in 1992, and is now Article 346 of the 2009 version of the treaty. The various versions of the Treaty of Rome are available at <<http://eur-lex.europa.eu/en/treaties/>>.

⁵ European Council, Conclusions, DOC/91/2, Luxembourg, 29 June 1991, Annex VII, 'Declaration on non-proliferation and arms exports'; and European Council, Presidency Conclusions, DOC/92/3, Lisbon, 27 June 1992, p. 14.

⁶ Council of the European Union, European Union Code of Conduct on Arms Exports, document 8675/2/98 Rev 2, Brussels, 5 June 1998, <<http://www.consilium.europa.eu/uedocs/cms Upload/08675r2en8.pdf>>.



Box 1. The eight criteria of the European Union's Common Position defining common rules governing control of exports of military technology and equipment

1. Respect for the international obligations and commitments of Member States, in particular the sanctions adopted by the UN Security Council or the European Union, agreements on non-proliferation and other subjects, as well as other international obligations.
2. Respect for human rights in the country of final destination as well as respect by that country of international humanitarian law.
3. Internal situation in the country of final destination, as a function of the existence of tensions or armed conflicts.
4. Preservation of regional peace, security and stability.
5. 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. 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. Existence of a risk that the military technology or equipment will be diverted within the buyer country or re-exported under undesirable conditions.
8. Compatibility of the exports of the military technology or equipment with the technical and economic capacity of the recipient country, taking into account the desirability that states should meet their legitimate security and defence needs with the least diversion of human and economic resources for armaments.

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

account' the factors listed in criteria 5–8 when considering a licence application.

Under the EU Code of Conduct, member states committed themselves to set 'high common standards which should be regarded as the minimum for the management of, and restraint in, conventional arms transfers' and 'to reinforce cooperation and to promote convergence in the field of conventional arms exports' within the framework of the EU's Common Foreign and Security Policy (CFSP).⁷ To help achieve this, the member states agreed to confidentially share information on the export licences granted and denied and on actual exports of arms and military equipment. This information has since been included in publicly available annual reports.

Following its creation, the EU Code of Conduct underwent significant changes. First, in 2000 the Council introduced the Common Military List, describing the 22 categories of arms, munitions, military equipment and technologies subject to the EU Code. This list is regularly updated.⁸ Second, the degree of detail on member states' export licences and actual exports that appears in the EU annual reports has increased substantially. Third, in 2003 the Council published the first version of a publicly accessible user's guide, aimed at assisting with the implementation of the EU Code, in particular relating to advice on the interpretation of the eight criteria. The user's guide has been updated on a regular basis.⁹

There has been a concerted effort to develop harmonized arms export policies

⁷ Council of the European Union (note 6), p. 2.

⁸ For the latest version, see Council of the European Union, Common Military List of the European Union, adopted by the Council on 15 Feb. 2010, *Official Journal of the European Union*, C69, 18 Mar. 2010.

⁹ The current version of the user's guide is Council of the European Union, User's Guide to Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment, document 9241/09, Brussels, 29 Apr. 2009.



There continue to be cases where the criteria of the Common Position are interpreted differently by member states

In December 2008 the EU member states replaced the EU Code of Conduct with the EU Common Position defining common rules governing control of exports of military technology and equipment.¹⁰ Although the Common Position retained many of the elements developed under the Code of Conduct in the preceding decade—including the eight criteria—there were several key changes. First, the Common Position is a legal instrument, requiring member states to ensure that their national positions conform to common requirements. Second, it extended controls to cover the licensing of production abroad, brokering activities, transit and trans-shipment, and intangible transfers of technology.¹¹

Despite being a legal instrument, the EU Common Position still leaves decisions on the granting and denying of arms export licences in the hands of member states. As a result, there continue to be cases where the criteria of the Common Position are interpreted differently by member states. While the user's guide is a useful aid in the harmonization of EU arms export policies, little work has been undertaken to assess whether harmonization is taking place.¹²

EU arms embargoes

EU member states share a common view that mandatory United Nations arms embargoes should be respected. As a rule, for each UN arms embargo, the EU imposes a corresponding EU arms embargo. The EU has also imposed arms embargoes that go beyond the requirements of a particular UN arms embargo, as in the case of the arms embargo on Sudan. In addition, the EU has imposed arms embargoes on targets that are not subject to UN arms embargoes, including China, Guinea, Myanmar, Uzbekistan and Zimbabwe.¹³ (On the case of Uzbekistan see section IV below.)

Following the entry into force of the 2007 Treaty of Lisbon, EU arms embargoes are announced via a Council decision.¹⁴ This follows a proposal made by the High Representative of the Union for Foreign Affairs and Security Policy, the Commission or one of the EU member states.¹⁵ EU arms embargoes, like UN arms embargoes, are implemented and enforced at the national level. However, in 2004 a 'Sanctions formation' known as RELEX/Sanctions was established within the Council's Foreign Relations Counsellors Working Group (RELEX) as a forum for the exchange of experience

¹⁰ Council Common Position 2008/944/CFSP (note 1).

¹¹ Intangible transfers of technology include, e.g., the transfer of technical information via electronic means and via individuals with technical knowledge.

¹² For one example see Bromley, M. and Brzoska, M., 'Towards a common, restrictive EU arms export policy? The impact of the EU Code of Conduct on major conventional arms exports', *European Foreign Affairs Review*, vol. 13, no. 3 (autumn 2008).

¹³ For complete details of current and past EU and UN arms embargoes, see the SIPRI Arms Embargoes Database, <<http://www.sipri.org/databases/embargoes>>.

¹⁴ Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed 13 Dec. 2007, entered into force 1 Dec. 2009, <http://europa.eu/lisbon_treaty/>. See also note 4.

¹⁵ On EU arms embargoes see European Commission, External Relations, 'Sanctions or restrictive measures', 12 Dec. 2009, <http://ec.europa.eu/external_relations/cfsp/sanctions/index_en.htm>; and Shields, V., 'Verifying European Union arms embargoes', Verification Research, Training and Information Centre (VERTIC), 18 Apr. 2005, <<http://www.vertic.org/publications.html>>.



and development of best practice in the implementation of sanctions.¹⁶ The mandate of RELEX/Sanctions also includes the collection of information on all alleged circumventions of EU sanctions. This information is not made publicly available.

In contrast to the relative openness of the UN Security Council's system for monitoring its sanctions, the monitoring of EU arms embargoes remains opaque.¹⁷ Despite the fact that the Council has stated that there should be 'regular reporting on the implementing measures and enforcement actions taken by Member States to give effect to restrictive measures', it has not called for reports on investigations into alleged and actual violations.¹⁸

The monitoring of EU arms embargoes remains opaque

III. The example of Central Asia

According to data in the SIPRI Arms Transfers Database, around nine-tenths of major conventional weapons transferred to Central Asia during the period 1992–2009 were supplied by Russia, while the main recipient was Kazakhstan (see table 1).¹⁹ Kazakhstan and Turkmenistan appear to be preparing to procure significant quantities of arms and military equipment for their armed forces and to develop naval forces in the Caspian Sea.²⁰ In both cases, Russia is expected to remain the main supplier of arms and military equipment.²¹

Neither the United Nations Register of Conventional Arms (UNROCA) nor the SIPRI Arms Transfers Database records any transfer of major conventional weapons from EU member states to Central Asia during the period 1992–2009.²² EU member states have supplied, and continue to seek orders for, other arms and military equipment for the armed forces of Central Asian states. For example, in October 2009, during a visit to Kazakhstan by French President Nicolas Sarkozy, it was announced that the French arms manufacturer Thales had secured a €100 million contract to supply radios to

¹⁶ Council of the European Union, 'Monitoring and evaluation of restrictive measures (sanctions) in the framework of CFSP: establishment of a "Sanctions" formation of the Foreign Relations Counsellors Working party (RELEX/Sanctions)', document 5603/04, Brussels, 22 Jan. 2004.

¹⁷ On the implementation and monitoring of UN arms embargoes see Fruchart, D. et al., *United Nations Arms Embargoes: Their Impact on Arms Flows and Target Behaviour* (SIPRI/Uppsala University: Stockholm, 2007), p. 2; and Griffiths, H. and Bromley, M., *Air Transport and Destabilizing Commodity Flows*, SIPRI Policy Paper no. 24 (SIPRI: Stockholm, May 2009), p. 49.

¹⁸ Council of the European Union, Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy, document 15114/05, Brussels, 2 Dec. 2005, para. 80.

¹⁹ SIPRI Arms Transfers Database, <<http://www.sipri.org/databases/armstransfers/>>.

²⁰ Kucera, J., 'Centre of attention', *Jane's Defense Weekly*, 14 Oct. 2009, pp. 30–31; and Muzal-evsky, R., 'Turkmenistan's naval plans: promoting its maritime and energy interests', *Eurasia Daily Monitor*, 16 Feb. 2010.

²¹ See e.g. 'Kazakhstan, Russia sign contract on S-300 air defense systems', RIA-Novosti, 4 Mar. 2009, <<http://en.rian.ru/world/20090304/120410095.html>>; Sharip, F., 'Kazakhstan balances NATO and pro-Russian alliances', *Eurasia Daily Monitor*, 14 May 2009; Abdullaev, N., 'Russia ups cooperation with Central Asian allies', *Defense News*, 20 July 2009; Kir'yanov, O., [Ashgabat will buy ships with missiles], *Rossiiskaya gazeta*, 1 Sep. 2009; and Myasnikov, V., [Anti-crisis exhibition in Nizhny Tagil], *Nezavisimoe voennoe obozrenie*, 24 July 2009.

²² United Nations Register of Conventional Arms, <http://disarmament.un.org/un_register.nsf>; and SIPRI Arms Transfers Database (note 27). Note that at the time of writing the SIPRI Arms Transfers Database included data on transfers in 2009, while UNROCA only covered the period up to 2008.

**Table 1.** Total volume of transfers of major conventional weapons to Central Asia, by supplier, 1992–2009

Figures are percentage shares of the total volume (not the financial value) of major conventional weapons delivered to Central Asia in the period 1992–2009. Figures may not add up to totals because of the conventions of rounding.

Supplier	Recipient					Total
	Kazakhstan	Kyrgyzstan	Tajikistan	Turkmenistan	Uzbekistan	
Georgia	–	–	–	2	–	2
Israel	3	–	–	–	–	3
Kazakhstan	–	0	–	–	–	0
Korea, South	1	–	–	–	–	1
Russia	76	1	4	4	1	87
Turkey	1	–	–	–	–	1
Ukraine	1	–	–	3	–	4
United States	3	–	–	–	–	3
Unknown country	–	0	–	–	–	0
Total	84	2	4	9	1	100

– = nil; 0 = <0.5.

Source: SIPRI Arms Transfers Database, <<http://www.sipri.org/databases/armstransfers/>>.

the Kazakh Army.²³ Also in 2009, shortly after Kazakh President Nursultan Nazarbayev met Italian Prime Minister Silvio Berlusconi, Selex Gallileo (a subsidiary of the Italian company Finmeccanica) signed an agreement for its electro-optics systems to be used in the upgrading of Kazakhstan's T-72 tanks.²⁴ However, based on the available information, it can be safely concluded that the states of Central Asia do not represent a major market for arms or military equipment for EU member states, as shown in table 2.²⁵

This section continues by analysing the information published in the EU annual reports on export licences granted and denied and exports of arms and military equipment to Central Asia. When considering data derived from EU annual reports it is important to bear in mind its limitations. First, not all EU member states provide complete information on licences issued and arms exported. In particular, many states reported only on export licences issued. In addition, a licensed export may not take place or may be only partially fulfilled. Thus, in the tables below, the value of licences issued is generally higher than the value of actual exports reported. For more on the challenges involved in using EU data on arms exports see section V below.

²³ Leonard, P., 'French president secures transit of military hardware through Kazakhstan on way to Afghanistan', Associated Press, 6 Oct. 2009.

²⁴ Anderson, G., 'Finmeccanica signs wide-ranging MoU with Kazakhstan', *Jane's Defence Weekly*, 18 Nov. 2009, p. 6. Finnish and Czech arms companies have also sought to be involved in this long-standing upgrade programme. Barabanov, M., [The defense industry of Kazakhstan], *Ekspert Vooruzheniy*, no. 3/2008 (May/June 2008), pp. 28–35; and 'Kazakh minister, Czech envoy discuss military cooperation', Interfax-Kazakhstan, 14 Oct. 2008.

²⁵ It should be noted that the total population of the 5 Central Asian states (61 million in 2009) is less than 1% of total world population and that their total gross domestic product (\$161 billion in 2007) is less than 0.5% of total world GDP. United Nations Population Fund (UNFPA), *State of World Population 2009: Facing a Changing World—Women, Population and Climate* (UNFPA: New York, 2009), pp. 88–90; and International Monetary Fund, World Economic Outlook Database, Apr. 2010, <<http://www.imf.org/external/pubs/ft/weo/2010/01/weodata/index.aspx>>.



Table 2. Value of export licences and exports of arms and military equipment from the European Union to Central Asia, 2001–2008

All figures are as reported in EU annual reports on arms exports in the years 2001–2008.

Year	Reported value of export licences issued (€)	Share of total reported value of export licences issued (%)	Reported value of exports (€)	Share of total reported value of exports (%)
2001	9 798 014	0.001	36 201 643	0.0005
2002	31 556 870	0.001	–	–
2003	28 119 155	0.001	145 600	0.000005
2004	18 199 156	0.0007	4 820 717	0.0005
2005 ^a	30 593 928	0.001	2 361 319	0.0003
2006 ^a	10 991 015 ^b	0.0002	2 420 697 ^b	0.0003
2007 ^a	71 031 880 ^c	0.003	6 794 625	0.0006
2008 ^a	20 125 345	0.0006	1 998 607	0.0002
Total	220 415 363	0.001	54 743 208	0.0008

^a Uzbekistan was subject to an EU arms embargo from Nov. 2005 to Nov. 2009.

^b These figures exclude the (subsequently revised) information provided in the original version of the 9th annual report recording Austrian export licences for and exports to Uzbekistan.

^c This figure excludes the (subsequently revised) information provided in the 10th annual report recording German export licences for Uzbekistan.

Source: Fourth–10th Annual Reports According to Operative Provision 8 of the European Union Code of Conduct on Arms Exports, 2002–2008, and 11th Annual Report According to Article 8(2) of Council Common Position 2008/944/CFSP Defining Common Rules Governing Control of Exports of Military Technology and Equipment, 2009; all published in the *Official Journal of the European Union*, 2002–2009, and available at <<http://www.consilium.europa.eu/showPage.aspx?id=1484>>.

The main EU exporters to Central Asia

Among EU member states, France exported by far the highest value of exports of arms and military equipment to Central Asia in the period 2001–2008 (see table 3)—this is largely due to French exports to Uzbekistan reported for 2001.²⁶ France also issued the highest total value of export licences for arms and military equipment in this period, followed by the United Kingdom, Germany and Spain. Alongside these established members of the EU, the 12 states that joined the EU in 2004 and 2007 are well represented among those issuing licences and exporting arms and military equipment to Central Asia. After France, the most significant suppliers to Central Asia in terms of reported deliveries are the Czech Republic, Slovakia and Bulgaria.

From 2003, EU member states began to provide information for the EU annual reports broken down by Common Military List category.²⁷ Over

²⁶ France reported the export of arms and military equipment worth €32.0 million to Uzbekistan in 2001. Fourth Annual Report According to Operative Provision 8 of the European Union Code of Conduct on Arms Exports, *Official Journal of the European Communities*, C319, 19 Dec. 2002, p. 18.

²⁷ Sixth Annual Report According to Operative Provision 8 of the European Union Code of Conduct on Arms Exports, *Official Journal of the European Union*, C316, 21 Dec. 2004; Seventh Annual Report According to Operative Provision 8 of the European Union Code of Conduct on Arms Exports, *Official Journal of the European Union*, C328, 23 Dec. 2005; Eighth Annual Report According to Operative Provision 8 of the European Union Code of Conduct on Arms Exports, *Official Journal of the European Union*, C250, 16 Oct. 2006; Ninth Annual Report According to Operative Provision 8 of the European Union Code of Conduct on Arms Exports, *Official Journal of the European Union*, C253, 26 Oct. 2007; Tenth Annual Report According to Operative Provision 8 of the European Union Code of Conduct on Arms Exports, *Official Journal of the European Union*, C300, 22 Nov. 2008; Eleventh Annual Report According to Article 8(2) of Council Common Position 2008/944/CFSP Defining

Table 3. Value of export licences and exports of arms and military equipment from the European Union to Central Asia, by exporting country, 2001–2008

All figures are as reported in EU annual reports on arms exports in the years 2001–2008.

Exporting state	Value of export licences issued (€)	Value of arms exported (€)
Austria	2 073 145 ^c	235 453 ^c
Bulgaria ^a	351 156	537 156
Czech Republic ^b	4 397 271	3 779 714
Denmark	3 364	–
Finland	81 280	31 186
France	104 198 498	46 889 642
Germany	29 974 234 ^d	282 000
Hungary ^b	35 000	31 308
Ireland	15 494	14 218
Italy	413 150	–
Poland ^b	181 891	–
Slovakia ^b	11 772 310	2 828 173
Spain	18 942 498	10 898
Sweden	329 573	103 460
United Kingdom	47 646 499	–
Total	220 415 363	54 743 208

^a This state joined the European Union on 1 Jan. 2007; it was not obligated to report on arms exports prior to 2007.

^b These states joined the European Union on 1 May 2004; although they were not obligated to report on their arms exports prior to 2004, some did report on arms exports in 2003.

^c These figures exclude the (subsequently revised) information provided in the original version of the 9th annual report recording Austrian export licences for and exports to Uzbekistan.

^d This figure excludes the (subsequently revised) information provided in the 10th annual report recording German export licences for Uzbekistan.

Sources: Fourth–11th EU annual reports on arms exports, 2002–2009, published in the *Official Journal of the European Union* and available at <<http://www.consilium.europa.eu/showPage.aspx?id=1484>>.

the period 2003–2008, category 11 items accounted for the largest share of the total value of licences for export to Central Asia (worth €77.7 million). Between them, France (which issued licences worth €43.4 million), Spain (€18.9 million) and Germany (€14.6 million) accounted for almost all licences for this category. Category 11 covers a broad range of electronic items ‘specially designed for military use’ and could include equipment for jamming radar or radio communications, surveillance equipment or navigation equipment; the EU annual reports do not give more detailed information on what equipment is actually being transferred. The second largest category by value of export licences issued is category 15 (with licences worth €20.01 million); France (which issued licences worth €19.99 million) accounted for nearly all of these proposed exports. Category 15 covers imaging and countermeasure equipment for military use and could include infrared or thermal imaging equipment. The next largest categories by value of export licences issued in 2003–2008 are category 10 (with licences worth a total of €14.1 million), category 1 (€6.0 million) and category 6 (€5.3 million). Most category 10 licences, which cover aircraft and related materials and components, were issued by Slovakia (€9.8 million). Between them, Germany (€3.1 million) and Austria (€1 million) issued most of the category 1 licences, which are for small arms, while Germany accounted for more than two-thirds (€3.5 million) of the total for category 6, which covers ‘ground vehicles’ and can include sports utility vehicles or tanks.

While the largest share of licences issued by EU member states in the period 2001–2008 were for proposed arms exports to Kazakhstan, Uzbekistan accounted for the largest share of actual exports, mainly due to imports from France in 2001 (see table 4).²⁸ The total value of licences for the export of arms and military equipment to Kyrgyzstan, Tajikistan and Turkmenistan in the period 2001–2008 was comparatively low.

The largest share of licences for export to Kazakhstan were issued by France (€72.2 million of the total of €195 million), followed by the UK (€31.7 million) and Germany (€21.3 million). The highest value of export licences for Kyrgyzstan were issued by the UK, based on one licence issued

Common Rules Governing Control of Exports of Military Technology and Equipment, *Official Journal of the European Union*, C265, 6 Nov. 2009; and Council of the European Union (note 8).

²⁸ See note 26.



Table 4. Value of export licences and exports of arms and military equipment from the European Union to Central Asia, by importing country, 2001–2008

All figures are as reported in EU annual reports on arms exports in the years 2001–2008.

Importing state	Years licences issued	Value of export licences issued (€)	Years arms exported	Value of arms exported (€)
Kazakhstan	2001–2008	195 189 210	2001, 2003–2008	21 730 608
Kyrgyzstan	2001–2008	4 444 064	2005–2008	872 091
Tajikistan	2001, 2004–2008	1 264 307	2006	14 218
Turkmenistan	2001–2008	2 756 977	2007	1 900
Uzbekistan ^a	2001–2005	16 760 805	2001, 2004	32 124 392
Total		220 415 363		54 743 209

^a Uzbekistan was subject to an EU arms embargo from Nov. 2005 to Nov. 2009. These figures exclude the (subsequently revised) information provided in the original version of the 9th annual report recording Austrian export licences for and exports to Uzbekistan, and the information provided in the 10th annual report recording German export licences for Uzbekistan.

Sources: Fourth–11th EU annual reports on arms exports, 2002–2009, published in the *Official Journal of the European Union* and available at <<http://www.consilium.europa.eu/showPage.aspx?id=1484>>.

in 2001 for military equipment worth £2 million (€3.2 million), followed by Slovakia, which issued a licence for category 10 items worth €0.9 million in 2007. The largest share of export licences for Tajikistan were issued by Germany, which issued licences for category 6 items worth €0.8 million in 2004 and 2006. Germany also issued the largest share of export licences for Turkmenistan, for military equipment worth a total of €1.3 million in 2003–2005 and 2007–2008, mainly for category 6 items. France accounted for the largest share of export licences for Uzbekistan (€8.8 million), followed by the UK (€0.7 million).

Denials of export licences to Central Asia

Neither the EU Code of Conduct nor the EU Common Position provides a list of countries to which the export of arms and military equipment is prohibited. Licensing decisions are to be made on a case-by-case basis in accordance with the eight criteria.²⁹ When an export licence is denied, the licensing authority must cite the criteria on which the denial is based. This information is then reported in the EU annual reports, although it is not broken down by individual EU member states.

According to the EU annual reports, 34 export licence applications were denied for Central Asian destinations in the period 2001–2008 (see table 5). The most commonly cited criteria for denying a licence to export to Central Asia was criterion 2 (concerning respect for human rights and international law). This was followed closely by criterion 7 (concerning the risk of diversion), criterion 3 (concerning the internal situation in the country of destination) and criterion 1 (concerning the exporting country's international obligations

The Common Position does not provide a list of countries to which the export of arms and military equipment is prohibited

²⁹ However, the Council of the EU can impose an arms embargo on a particular country or non-state group that is legally binding on all EU member states. See sections II and IV.

Table 5. Criteria cited in denials of a licence to export from a European Union member state to Central Asia, 2001–2008

Figures are the number of times each criterion was cited in an export licence denial. More than one criterion may be cited in a denial.

Criterion	1	2	3	4	5	6	7	8	Total no. of denials
2001	–	2	1	1	–	–	–	–	3
2002	–	–	–	1	–	–	1	–	2
2003	–	–	–	–	–	–	–	–	–
2004	–	–	2	1	–	–	–	–	2
2005	3	7	2	2	–	–	4	–	12
2006	2	3	5	–	–	–	3	–	8
2007	2	–	–	–	–	–	1	–	3
2008	2	–	–	–	–	–	2	–	4
Total	9	12	10	5	–	–	11	–	34

Sources: Fourth–11th EU annual reports on arms exports, 2002–2009, published in the *Official Journal of the European Union* and available at <<http://www.consilium.europa.eu/showPage.aspx?id=1484>>.

Table 6. Denials of a licence to export from a European Union member state to Central Asia, by recipient state, 2001–2008

Figures are numbers of denials of licences for export.

Year	Kazakhstan	Kyrgyzstan	Tajikistan	Turkmenistan	Uzbekistan	Total
2001	–	1	–	–	2	3
2002	2	–	–	–	–	2
2003	–	–	–	–	–	–
2004	1	–	–	–	1	2
2005	2	2	1	1	6	12
2006	1	1	–	4	2	8
2007	1	–	–	–	2	3
2008	3	–	–	–	1	4
Total	10	4	1	5	14	34

Sources: Fourth–11th EU annual reports on arms exports, 2002–2009, published in the *Official Journal of the European Union* and available at <<http://www.consilium.europa.eu/showPage.aspx?id=1484>>.

and arms embargoes). Criterion 4 (concerning regional peace, security and stability) was cited several times, but criteria 5, 6 and 8 were never cited.

Most of the licence denials related to proposed exports of arms and military equipment to Uzbekistan or Kazakhstan (see table 6).

IV. The arms embargo on Uzbekistan, 2005–2009

On 13 May 2005 Uzbek Government security forces used ‘excessive, disproportionate and indiscriminate’ force to suppress a protest in Andijan, Uzbekistan.³⁰ Although the UN High Commissioner for Human Rights requested an independent international enquiry into the events, the Uzbek

³⁰ Council of the European Union, 2660th Council meeting, General Affairs and External Relations, Press release, Brussels, 23–24 May 2005. See also Organization for Security and Co-operation in Europe (OSCE), Office for Democratic Institutions and Human Rights (ODIHR), *Preliminary Findings on the Events in Andijan, Uzbekistan, 13 May 2005* (ODIHR: Warsaw, 20 June 2005).



Government refused to permit any such enquiry. In response, in November 2005 the Council of the EU imposed restrictive measures, including an arms embargo, on Uzbekistan.³¹ It established a ban on the ‘sale, supply, transfer or export of arms and related materiel of all types’ to Uzbekistan from or via EU member states, as well as prohibiting the provision of ‘technical assistance, brokering services and other services related to military activities’.³²

Having renewed the sanctions annually in 2006–2008, in October 2009 the Council decided not to renew the sanctions on Uzbekistan, including the arms embargo; as a consequence, the sanctions ended on 13 November 2009. The Council made this decision in light of ‘the commitment of Uzbekistan to work with the EU on a range of questions relating to human rights and the rule of law, and notes the positive steps taken in Uzbekistan over the last years’.³³ However, a key demand in the EU sanctions had not been met, namely the holding of an independent international enquiry into the Andijan massacre. Concerns that the Uzbek authorities have failed to account for the massacre or improve human rights standards appear to have been outweighed by the desire of certain member states and parts of the Commission to strengthen ties with Uzbekistan due to its energy resources and the use of the Termez airbase by Germany.³⁴ The decision was also interpreted as a reflection of the lack of leverage over Uzbekistan that the EU can achieve via an arms embargo due to its limited arms exports to Uzbekistan.³⁵

This section uses the data in the EU annual reports to determine the effect that the imposition of the arms embargo on Uzbekistan had on patterns of arms flows to that country. It also examines whether the EU reporting mechanisms could have been used to investigate possible breaches of the embargo.

EU arms exports to Uzbekistan before the arms embargo

Prior to the imposition of the arms embargo in 2005, Uzbekistan had been involved in some of the larger arms deals between an EU member and a Central Asian state. Germany and the United Kingdom reported transferring limited quantities of arms and military equipment to Uzbekistan in the 1990s, with Germany authorizing the transfer of small arms ammunition production equipment, night vision goggles and military uniforms between

Prior to the imposition of the arms embargo, Uzbekistan had been involved in some of the larger deals between an EU member and a Central Asian state

³¹ Council Common Position 2005/792/CFSP of 14 Nov. 2005 concerning restrictive measures against Uzbekistan, *Official Journal of the European Union*, L299, 16 Nov. 2005.

³² Council Common Position 2005/792/CFSP (note 31), Article 1.

³³ Council of the European Union, 2971st Council meeting, General Affairs and External Relations, Press release, Brussels, 27 Oct. 2009.

³⁴ Lungescu, O., ‘EU removes Uzbekistan arms block’, BBC News, 27 Oct. 2009, <<http://news.bbc.co.uk/2/hi/europe/8327703.stm>>; and Rettman, A., ‘Germany takes heat for EU decision on Uzbek arms embargo’, *EU Observer*, 27 Oct. 2009.

³⁵ Yusupov, F., ‘EU faces decision on Uzbek arms embargo’, Radio Free Europe/Radio Liberty, 15 Oct. 2009, <http://www.rferl.org/content/EU_Faces_Decision_On_Uzbek_Arms_Embargo/1852710.html>.

Box 2. The export of Land Rover Defenders from the United Kingdom to Uzbekistan via Turkey

Footage from the Andijan massacre of 13 May 2005 shows Uzbek security forces using armoured Land Rover Defenders.^a Although Land Rover is a British company, the vehicles used in Andijan were assembled by the Turkish firm Otokar before being transferred to the Uzbek security forces. Reports from 2005 indicate that Otokar supplied around 48 Land Rover Defenders to Uzbekistan in 2001–2005.^a

Otokar produces Land Rover Defenders under a licensed production agreement signed in 1987. Almost three-quarters of the components used in the production of Otokar's Land Rover Defenders are supplied by Land Rover in the UK.^a However, the components in question were considered to be entirely 'commercial' items and were not covered by the UK's military or dual-use control lists, both of which are derived from lists agreed at the European Union level.^b

The British Government responded to public and parliamentary pressure by stating that it is working with other EU member states to amend the system of controlling transfers of dual-use goods—that is, goods which have both civilian and military applications. In particular, the controls on items with a military end-use contained in the EU regulations on dual-use exports would 'be extended to apply to complete equipment where the intended end-use is by the police, military, para-military or security forces . . . and there is a clear risk that it will be used for internal repression, breaches of human rights, or against UK or allied forces'. This would apply both to embargoed destinations and 'additional listed destinations that are of heightened concern for any of these reasons'.^c However, the British Government has resisted calls to enhance its controls on licensed production abroad.^d

^a Baldwin, T., 'Uzbek massacre soldiers used Land Rovers in defiance of arms control promise', *The Times*, 26 May 2005.

^b British House of Commons, Defence, Foreign Affairs, International Development, and Trade and Industry committees, *Strategic Export Controls: 2007 Review*, First Joint Report of Session 2006–07 (Stationery Office: London, 7 Aug. 2007), para. 235–9

^c British Department for Business, Enterprise and Regulatory Reform (BERR), *Review of Export Control Legislation (2007): Government's End of Year Response* (BERR: London, Dec. 2008), p. 6.

^d British House of Commons, Business and Enterprise, Defence, Foreign Affairs, and International Development committees, *Scrutiny of Arms Export Controls (2009): UK Strategic Export Controls Annual Report 2007, Quarterly Reports for 2008, Licensing Policy and Review of Export Control Legislation*, First Joint Report of Session 2008–09 (Stationery Office: London, 19 Aug. 2009), para. 65.

1999 and 2004.³⁶ However, the most significant deals in financial terms were concluded with France.³⁷

France reported that it had exported arms and military equipment worth €32.0 million to Uzbekistan in 2001, the largest reported annual value for an actual delivery by an EU member state to a Central Asian state during the period 2001–2008.³⁸ Details were not provided on the type of military equipment involved, but it is possible that it related to the contract signed by the French company Sagem in June 2000 to upgrade 12 Uzbek Mi-8 military transport helicopters and 12 Mi-24 combat helicopters.³⁹ In 2003 France issued an export licence worth €1.8 million for items covered by the EU Common Military List category 10 (aircraft and related equipment) and in 2003 and 2004 licences worth €0.4 million for category 15 items (imaging or countermeasure equipment).⁴⁰

³⁶ British Foreign and Commonwealth Office, Ministry of Defence, and Department for Business Innovation and Skills, *United Kingdom Strategic Export Controls: Annual Report 2009* (Stationery Office: London, 2010), p. 284; Saunders, S., *Jane's Fighting Ships 2007–2008* (Jane's Information Group: Coulsdon, 2007), p. 431; and Schoeller-Schletter, A., 'Germany takes low-key approach toward Uzbekistan', *Eurasia Insight*, 6 Sep. 2005.

³⁷ In 1998 and 1999 France concluded agreements for military equipment worth a total of almost 450 million francs (€67.5 million). French Ministry of Defence, *Rapport au Parlement sur les exportations d'armement de la France en 1999* [Report to parliament on French arms exports in 1999] (Délégation à l'Information et à la Communication de la Défense, Mar. 2001), p. 82.

³⁸ French Ministry of Defence (note 37), p. 74; and Fourth Annual Report (note 26), p. 18.

³⁹ Kenzhetaev, M., 'Uzbekistan's military-technical cooperation with foreign states', *Ekspert vooruzheniy*, nos 11–12, (Nov.–Dec. 2001), p. 12. The majority of the work took place in Uzbekistan. Subsequent reports only mention the upgrade of the Mi-24 helicopters. 'Aircraft profile: Mi-24 Hind', *Air Forces Monthly*, Aug. 2008, pp. 80–82.

⁴⁰ Sixth Annual Report (note 27), pp. 178–79; and Seventh Annual Report (note 27), p. 213.



One type of export of arms and military equipment from the EU to Uzbekistan is not revealed by the data in the EU reports: the transfer of arms that have been manufactured outside the EU under licence from an EU company. For an example of this type of transaction see box 2.

Suspected violations of the EU arms embargo

EU annual reports on arms exports apparently reveal that two member states—Austria and Germany—transferred arms and military equipment subject to transfer controls to Uzbekistan while the arms embargo was in force.

First, Austria was reported to have granted export licences in 2006 for €900 199 worth of category 1 items (small arms) and to have allowed exports for the same category worth €43 434, as well as exporting €4642 worth of category 18 items (arms production equipment).⁴¹ Although these exports would appear to be in contravention of the EU arms embargo on Uzbekistan, no explanation for these transfers was offered in the EU annual report or the Austrian national arms export report for 2006.⁴² It would appear that RELEX/Sanctions did not explore these publicly available documents either, as it was not until June 2010, after the lifting of the EU arms embargo, that Austria amended its submission to the EU annual report for 2006. The export licences and exports recorded as going to Uzbekistan were actually for South Africa and the publication in the EU and national reports were clerical errors.⁴³

Second, Germany reported to the EU that it had issued an export licence in 2007 for €187 250 worth of category 6 items.⁴⁴ This was explained in the German annual arms export report as an armoured vehicle for a NATO embassy in Uzbekistan.⁴⁵

While in these two cases the embargo was not breached, in March 2010 it was reported that Germany had violated the prohibition on the provision to Uzbekistan of ‘services related to military activities’.⁴⁶ A German newspaper claimed that a military training assistance programme that had been running since 1994 continued during the EU arms embargo.⁴⁷ German armed forces are said to have been involved in the training of Uzbek military personnel, including providing tactical training for 14 Uzbek officers. These claims contradict a statement made in June 2006 by a government representative that Germany had not provided

An independent panel could undertake an investigation and provide lessons for the implementation and enforcement of EU arms embargoes

⁴¹ Ninth Annual Report (note 27), p. 259.

⁴² Austrian Foreign Ministry, *Österreichische Exportkontrolle für konventionelle Militärgüter Politische und rechtliche Rahmenbedingungen* [Austrian export controls for conventional military goods policy and legal framework] (Austrian Foreign Ministry: Vienna, [2007]), statistical annex.

⁴³ Austrian Federal Ministry of Economy, Family and Youth, Personal communication with author, 11 June 2010.

⁴⁴ Tenth Annual Report (note 27), p. 290.

⁴⁵ German Federal Ministry of Economics and Technology (BMWi), *Bericht der Bundesregierung über ihre Exportpolitik für konventionelle Rüstungsgüter im Jahre 2007: Rüstungsexportbericht 2007* [Report of the federal government on its policy on conventional arms export in 2007: Arms export report 2007] (BMWi: Berlin, Jan. 2009), p. 124.

⁴⁶ Council Common Position 2005/792/CFSP (note 31), Article 1.

⁴⁷ Bensman, M., ‘Schützenhilfe nach dem Massaker’ [Aid after the massacre], *Die Tageszeitung*, 24 Mar. 2010.

Table 7. Reporting to the European Union annual reports on arms exports, 2004–2008

Annual report	Year covered	Year of publication	No. of states making submissions	No. of states making full submissions ^a	Proportion of states making full submissions (%) ^a
7th	2004	2005	25	13	52
8th	2005	2006	25	17	68
9th	2006	2007	25	15	60
10th	2007	2008	27	17	63
11th	2008	2009	27	19	70

^a A ‘full submission’ is taken to be data on the financial value of both arms export licences issued and actual exports, broken down by both destination and EU Common Military List category.

Sources: Seventh–11th EU annual reports on arms exports, 2005–2009, published in the *Official Journal of the European Union* and available at <<http://www.consilium.europa.eu/showPage.aspx?id=1484>>.

technical or financial assistance to the armed forces of Uzbekistan since the imposition of EU sanctions in November 2005.⁴⁸ In such instances as this, an independent panel could undertake an investigation and provide lessons for the implementation and enforcement of EU arms embargoes—however, there is currently no such mechanism for monitoring the enforcement of EU embargoes.

V. Challenges in the use of data from European Union annual reports

Monitoring exports

Using officially produced data to monitor exports of arms and military equipment from EU member states to Central Asia presents a number of challenges. First, while all EU member states report to the EU annual reports, not all member states make full submissions (see table 7).⁴⁹

Second, the EU annual reports include more information about export licences than about actual exports of arms. Although export licence information can be useful for indicating the interpretation of the criteria of the EU Common Position, it is not a reliable indicator of when, or even if, a delivery of the arms and military equipment takes place. The licence may not be used or may be subsequently revoked, and therefore arms and equipment may not have been delivered.

Third, the EU annual reports do not systematically provide information on specific end-users or end-uses for particular transfers, and the reported country of destination is not always the final recipient. However, some information is now provided if licences or exports are for EU or UN peacekeeping missions in countries subject to an EU or UN arms embargo. National arms export reports can contain more information on end-users, which can help

⁴⁸ ‘Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Paul Schaäfer (Köln), Heike Hänsel, Katrin Kunert, weitere Abgeordneten unter der Fraktion Die Linke: Die zukünftige Rolle des Bundeswehrstützpunkts Termez (Usbekistan)’ [Response of the Federal Government to the written question by Mr Paul Schaäfer (Cologne), Heike Hänsel, Katrin Kunert, other members of the Left group: The future role of the German Army base Termez (Uzbekistan)], German Parliament (Bundestag), Drucksache 16/1759, 6 June 2006.

⁴⁹ See Bromley, M. and Holtom, P., ‘Transparency in arms transfers’, *SIPRI Yearbook 2010: Armaments, Disarmament and International Security* (Oxford University Press: Oxford, 2010).



to avoid confusion and unjustified concerns. The Czech Republic's national reports for 2005 and 2006, which provide a breakdown of the end-users for its exports of arms and military equipment, show how this could be done. For example, the Czech report for 2006 records that the Kazakh armed forces received 10 per cent of the €324 000 worth of military equipment exported to Kazakhstan, the police received for 35 per cent, and 55 per cent was for 'trade and collectors'.⁵⁰

Fourth, it is not possible to identify in the EU annual reports cases where components are to be exported for integration into a weapon system abroad and subsequently re-exported to a third country. For example, in July 2009 Russia announced that an agreement had been concluded with the French company Thales for the licensed production in Russia of Catherine FC long-range thermal imagers for use in Russian-produced T-90S tanks; at the same time it was announced that Turkmenistan had ordered a small number of these tanks.⁵¹ It is unclear if the tanks supplied by Russia will have the thermal imagers attached or if France has granted a licence for their transfer to Turkmenistan. As an example of good practice, the Swedish national report contains information on companies that have received licences for overseas production and information on authorizations for re-export, noting the supplier, recipient, type and quantity of the arms and military equipment.⁵²

Fifth, certain types of equipment destined for the armed and security forces of Central Asia may never appear in EU or national reports on arms export because they are considered to be civilian products and so do not fall within the scope of the exporter's transfer controls. The case of Land Rover Defender utility vehicles, a British item produced under licence in Turkey and exported to Uzbekistan's security forces, highlights this particular challenge (see box 2 above).

Using officially produced data to monitor exports of arms and military equipment presents a number of challenges

Assessing denials

According to the EU Common Position, each application for a licence to export arms and military equipment should be assessed on a case-by-case basis against the eight criteria of the Common Position. EU annual reports only provide denials data in an aggregated format. However, several EU member states provide some information on export licence denials by destination and in some cases type of military equipment in their national reports (see table 8). In certain cases this raises questions about the consistency of states' implementation of the eight criteria while also pointing to the need for greater transparency in this area at the EU level.

⁵⁰ Czech Ministry of Foreign Affairs (MFA), *Annual Report on Export Control of Military Equipment and Small Arms for Civilian Use in the Czech Republic in 2006* (MFA: Prague, 2007), tables 1 and 3.

⁵¹ [Arms show concludes in Nizhny Tagil], Lenta.ru, 11 July 2009, <<http://lenta.ru/news/2009/07/11/tagil/>>; and [Turkmenistan bought a batch of Russian tanks T-90S], Lenta.ru, 8 July 2009, <<http://lenta.ru/news/2009/07/08/tanks/>>.

⁵² Swedish Government, *Strategic Export Control in 2008: Military Equipment and Dual-Use Products*, Government Communication 2008/09:114 (Ministry for Foreign Affairs: Stockholm, 12 Mar. 2009).

Table 8. Denials of a licence to export from a European Union member state to Central Asia as reported in national arms export reports, 2001–2008

Figures are numbers of denials of licences for export to Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan or Uzbekistan.

Year	Czech Republic	France	Germany	United Kingdom	Total denials reported in national reports	Total denials reported in EU annual reports
2001	–	–	–	1 ^a	1	3
2002	–	–	–	–	–	2
2003	–	–	–	–	–	–
2004	–	2 ^b	1 ^a	–	3	2
2005	–	3 ^b	2 ^c	–	5	12
2006	–	3 ^b	3 ^d	–	6	8
2007	1 ^a	1 ^b	1 ^e	–	3	3
2008	–	–	2 ^e	–	2	4
Total	1	9	9	1	20	34

^a This denial was for a licence to export to Uzbekistan.

^b These denials were for a licence to export to an unspecified state in ‘Central Asia’.

^c One of these denials was for a licence to export to Kyrgyzstan and 1 was for a licence to export to Uzbekistan.

^d One of these denials was for a licence to export to Kazakhstan and 2 were for licences to export to Uzbekistan (which was subject to an EU arms embargo at the time).

^e These denials were for licences to export to Kazakhstan.

Sources: National arms export reports of the Czech Republic, France, Germany and the United Kingdom, available at <http://www.sipri.org/research/armaments/transfers/transparency/national_reports/>.

For example, in 2008 Germany granted three licences for the export to Kazakhstan of items worth €853 000 covered by Common Military List category 6.⁵³ But in the same year Germany also denied two licences for the export of goods covered by the same category for the same destination, citing criterion 7.⁵⁴ Also in 2008, an unknown EU member state denied a licence for the export of category 6 items to Kazakhstan, citing criteria 1, while France granted a licence for the export of items worth €12 038 of the same category to the same destination.⁵⁵ Based on the information provided, it is not possible to understand the different licensing decisions of these states.

VI. Conclusions and recommendations

While the EU annual reports on arms exports contain a wealth of information on the flow of arms from the European Union, the case study of transfers to Central Asia shows that they have several shortcomings. The following recommendations for further investigation and improvement in the monitoring of exports of arms and military equipment by EU member states would, if implemented, allow the full potential of this instrument of public transparency to be realised.

⁵³ Eleventh Annual Report (note 27), p. 149.

⁵⁴ German Federal Ministry of Economics and Technology (BMWi), *Bericht der Bundesregierung über ihre Exportpolitik für konventionelle Rüstungsgüter im Jahre 2008: Rüstungsexportbericht 2008* [Report of the federal government on its policy on conventional arms export in 2008: Arms export report 2008] (BMWi: Berlin, Mar. 2010), p. 113.

⁵⁵ Eleventh Annual Report (note 27), p. 149.



The coverage of EU annual reports on arms exports

In its examination of the case of Central Asia, this paper shows the limitations of using official data to monitor exports of arms and military equipment from the EU. Examples provided above show that it is possible to use other open sources to uncover details of the type, quantity and end-user of particular shipments of arms and military equipment that are lacking in the official reports. In most cases, however, these alternative sources are not available and it remains a challenge to use the EU annual reports to monitor arms flows from the EU and to assess transfers of arms or military equipment against the eight criteria of the EU Common Position. The EU annual reports can be a useful tool for identifying arms exports that could be of concern, but as the case of Austria's reported exports to Uzbekistan illustrates, it seems that there is no systematic review of the EU annual report looking for such cases.

The EU annual reports can be a useful tool for identifying arms exports that could be of concern

In some cases, member states have provided additional information in national reports on arms exports to assuage concerns in cases that could be controversial. For example, the UK's annual reports for 2008 and 2009 included narrative sections describing the decision-making process for certain licensing decisions concerning Central Asian recipients. The 2008 report provides the reasons for denying an application to export radio jamming equipment to Turkmenistan, while the 2009 report provides the reasons for approving an application to export jamming equipment to Kazakhstan.⁵⁶ In both cases consideration was given to the potential use of the equipment for internal repression. This is a transparent means of explaining licensing decisions for licence applicants, civil society and even potential recipients. While such an approach cannot be taken for every case, it is nevertheless a useful mechanism for explaining potentially controversial decisions and should be adopted in the EU annual reports.

More systematic data could also be provided on the type of end-user and more detailed information reported on types of weapon system licensed for export and exported. Given that several EU members already publish information in their national reports on licence denials, it is worth considering identifying the state which has issued each licence denial in the EU annual reports or presenting the information online.

Parliamentary oversight

The data in the EU annual reports remains underexploited—once published, the reports are generally neglected and little action is taken to examine the contents or to make any assessment of arms flows from the EU. One way to improve the interrogation of the data on arms export licensing and exports is to strengthen parliamentary oversight at both the national and European levels.

⁵⁶ British Foreign and Commonwealth Office, Ministry of Defence, Department for Business Innovation and Skills, *United Kingdom Strategic Export Controls: Annual Report 2008* (Stationery Office: London, 2009), p. 18; and British Foreign and Commonwealth Office, Ministry of Defence, and Department for Business Innovation and Skills (note 36), p. 18.



The European Parliament should engage with the implementation of the Common Position

In the past the European Parliament's Committee on Foreign Affairs has assessed the EU annual reports and provided recommendations for improvements in transparency and controls on transfers under the EU Code of Conduct.⁵⁷ However, the dialogue between the Council and the Parliament on this issue has lapsed, and the Parliament has not yet provided an assessment of the implementation of the EU Common Position. The European Parliament should engage with the implementation of the Common Position, holding regular hearings on the issue and publishing assessments. In this way, the European Parliament can play a concrete role in increasing the harmonization of states' policies in the field of arms exports.

At the national level, there are a number of ways in which parliamentary oversight plays a role in relation to national policies on exports of arms and military equipment. For example, in Sweden a cross-party parliamentary committee holds regular hearings on potentially sensitive licence applications. In the UK the parliamentary committees on business, defence, foreign affairs and international development regularly examine the British Government's policy on export controls. These joint enquiries provide a regular opportunity for parliamentarians, civil society and arms industry representatives to discuss national export controls, compliance with national and international obligations and their ongoing improvement.

Monitoring licensed production arrangements

One of the specific problems identified by the case study of Central Asia is the difficulty for the exporting state of monitoring the final end-user or end-use of arms and military equipment that are manufactured outside the EU under licence from an EU company. This also applies to components and subsystems exported for assembly outside the EU and to nominally civilian items that can be put to a military use. Even states with significant economic, political and diplomatic resources have difficulty in monitoring the end-use of such arms.

Several Central Asian states have developed or are seeking to develop arms industries both to meet domestic procurement needs and with a view to exporting arms.⁵⁸ EU member states have assisted, or demonstrated a willingness to assist, these efforts. For example, Germany has provided equipment and technologies for the production of small arms ammunition in Uzbekistan, and companies based in EU member states have announced plans to establish joint ventures in Kazakhstan relating to helicopter maintenance, which could develop further.⁵⁹

⁵⁷ E.g. European Parliament, Committee on Foreign Affairs, Report on the Council's Seventh and Eight Annual Reports According to Operative Provision 8 of the European Union Code of Conduct on Arms Exports (2006/2068(INI)), document A6-0439/2006, 30 Nov. 2006.

⁵⁸ 'Israeli companies to help Kazakhstan tune production of modern arms: Defense Ministry', Interfax, 22 Jan. 2009; 'Kazakhstan shows interest in cooperating with Chinese defense industry', Interfax, 25 Dec. 2009; McDermott, R., 'Russian admiral goes to Kyrgyzstan to strengthen naval cooperation', *Eurasia Daily Monitor*, 5 June 2008; and 'Uzbek aircraft plant joins Russia's United Aircraft Corp.', RIA-Novosti, 6 Feb. 2008, <<http://en.rian.ru/business/20080206/98539890.html>>.

⁵⁹ Eurocopter, 'EADS and Eurocopter sign helicopter cooperation agreement with Kazakhstan', Press release, 6 Oct. 2009, <http://www.eurocopter.com/site/en/ref/Press-Releases_310y2009.html>.



When EU member states are considering licence applications for licensed production abroad they must consider the criteria of the EU Common Position. Yet it remains unclear how this is to be monitored. The Otokar case demonstrates that companies based outside the EU that have licensed production agreements and have received transfers of technologies, components and subsystems from EU member states have re-exported equipment from the EU that has subsequently been used in human rights violations in Central Asia. EU member state export licensing authorities must therefore focus attention on licensed production arrangements and transfers of technologies, components and subsystems involving states that are known to have strong military-to-military ties with governments that would otherwise be regarded as an undesirable recipient for arms and military equipment from the EU.

The role and purpose of EU arms embargoes

The EU arms embargo on Uzbekistan raises a number of questions relating to efforts to balance the strategic interests of EU member states against efforts by the EU and its members to promote good governance, democracy and respect for human rights. In contrast to UN sanctions, EU arms embargoes lack independent monitoring mechanisms to ensure implementation and to assess the positive and negative impacts of arms embargoes and other EU sanctions.

At present, RELEX/Sanctions only exchanges information on alleged violations. It does not have a mandate to investigate or commission investigators. In addition, there is no mechanism for RELEX/Sanctions to publicly report on the implementation and enforcement of EU arms embargoes, and in particular on investigations of alleged violations. It is therefore unclear if RELEX/Sanctions is aware of or has exchanged information on the alleged provision by Germany of military training to Uzbekistan while the embargo was in force. Moreover, if an investigation were to find that German authorities had violated the EU sanctions on Uzbekistan, it is unclear what the consequences would be.

EU arms embargoes seem to have become redundant

There is, however, a broader question: are arms embargoes a useful or necessary instrument for the EU? Since the application of the eight criteria of the EU Common Position should prevent the licensing of exports of arms and military equipment to ‘destinations of concern’ with regards to conflict and human rights violations, EU arms embargoes seem to have become redundant. However, given that the criteria may be applied inconsistently by member states, embargoes may act as a useful mechanism for harmonization of licensing decisions in extreme cases. To determine whether embargoes are indeed useful would require more study of the harmonization of EU member state export policies, licences and exports.

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THE LIMITATIONS OF EUROPEAN UNION REPORTS ON ARMS EXPORTS: THE CASE OF CENTRAL ASIA

PAUL HOLTOM AND MARK BROMLEY

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