

EUROPEAN UNION ARMS EXPORT CONTROL OUTREACH ACTIVITIES IN EASTERN AND SOUTH EASTERN EUROPE

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I. INTRODUCTION

The European Union (EU) Code of Conduct on Arms Exports of 1998 (Code) and its successor, EU Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment (Common Position), provide criteria to be used for assessing arms exports and mechanisms for information sharing and consultation to further the harmonization of export policies across the EU.¹ Although the Code was created by and for EU member states, its penultimate operative provision 'encouraged other arms exporting states to subscribe to the principles of the Code of Conduct'.² Article 11 of the Common Position elaborated on this point, requiring EU member states to 'use their best endeavours to encourage other States which export military technology or equipment to apply the criteria of this Common Position' and to 'regularly exchange experiences with those third states applying the criteria'.³

¹ The Council of the European Union adopted the Code of Conduct as a politically binding instrument in June 1998. The EU Common Position replaced the EU Code in December 2008. The EU Common Position is a legally binding instrument. Council of the European Union, European Union Code of Conduct on Arms Exports, 8675/2/98 Rev. 2, Brussels, 5 June 1998; and 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. For more information see Bromley, M., 'The review of the EU common position on arms exports: prospects for strengthened controls', Non-Proliferation Papers no. 7, Jan. 2012, <<http://www.sipri.org/research/disarmament/eu-consortium/publications/publications/non-proliferation-paper-7>>.

² Council of the European Union (note 1), Operative Provision 11.

³ Council Common Position 2008/944/CFSP (note 1), Article 11.

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SUMMARY

Outreach constitutes the normative dimension of efforts to enhance export control policies in third countries, while assistance is the practical dimension of such engagements. European Union (EU) Joint Action 2008/230/CFSP and Council Decision 2009/1012/CFSP provided funding for the Council Working Group on Conventional Arms Exports (COARM) outreach and assistance activities to promote alignment with EU Common Position 2008/944/CFSP and to strengthen export controls in Eastern and South Eastern Europe during 2008–11. This paper considers the evolution of EU efforts to promote alignment with the EU Code and the EU Common Position and the assistance rendered to strengthen export controls in third countries. It assesses progress towards the stated objectives for COARM outreach and assistance and concludes with some thoughts for the next round of outreach and assistance activities in Eastern and South Eastern Europe and recommendations for improving the prospects for alignment.

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EU member states have devoted resources to outreach and assistance activities to strengthen conventional arms export controls in third countries, and have discussed the objectives, principles, application of criteria and implementation of the Code and the Common Position. This paper focuses on outreach and assistance activities to promote the Common Position in Eastern and South Eastern Europe during 2008–11 that were supported by EU funding.⁴ These two subregions have been selected to contrast the responses to efforts to promote the Common Position in a subregion with EU membership aspirations and a subregion with limited membership prospects.

Section II briefly considers what outreach and assistance are, the rationale for outreach and assistance to strengthen the export, transit and brokering controls of third states, and who conducts outreach and assistance activities. Section III considers the evolution of EU efforts to promote the principles and criteria of the Code and the Common Position and the assistance rendered to strengthen export, transit and brokering controls in South Eastern and Eastern Europe, leading up to a discussion of the objectives and activities supported by EU funding under Joint Action 2008/230/CFSP and Council Decision 2009/1012/CFSP. Section IV considers the factors that have helped or hindered progress towards the stated objectives. The paper concludes with some thoughts on the challenges of outreach and assistance to promote the Common Position and recommendations for further outreach activities in these regions and beyond.

II. ARMS EXPORT CONTROLS: OUTREACH AND ASSISTANCE

The term ‘export controls’ is commonly used to describe the control of cross-border movements of

security-related items. However, ‘the international debate and associated activity have moved on from the traditional focus on controlling exports to encompass a wider range of activities, including the control of transit, trans-shipment and brokering’.⁵ The term ‘transfer controls’ therefore more accurately reflects reality. However, this paper uses the term ‘export controls’ to cover the export, transit and brokering of conventional arms because it is the term used in Joint Action 2008/230/CFSP and Council Decision 2009/1012/CFSP.⁶

Outreach and assistance are two methods for seeking to affect the export controls of another state.⁷ Outreach is the method for informing and encouraging other states to adopt particular practices, principles or standards for controlling arms exports, transit and brokering. It constitutes a normative dimension of efforts to enhance export control policies via awareness raising and dialogue. States can conduct outreach in several ways. First, the virtual realm of websites provides information, often in multiple languages, on principles, standards, activities, practices and recent developments. Second, bilateral or multilateral activities (e.g. seminars, workshops, study visits or consultations) raise awareness and promote standards and practices to be adopted by third countries.

Assistance is rendered to a state or exporting entity in order to implement particular practices and attain standards. This is the practical dimension of engagements with third countries. Assistance is provided through sharing experiences to (a) develop national legal frameworks; (b) build capacity for export, transit and brokering control systems; (c) strengthen licensing procedures; and (d) enhance capacities and awareness among enforcement agencies. Several forms of assistance can be provided for strengthening controls in beneficiary states, including seminars and study visits, training programmes, staff exchanges and the provision of material assistance (e.g. supplying

⁴ The countries of South Eastern Europe are Albania, Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia (FYROM), Montenegro and Serbia. The countries of Eastern Europe are Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. European Union funding also supported outreach and assistance to countries in the Middle East and North Africa. Council Joint Action 2008/230/CFSP of 17 Mar. 2008 on support for EU activities in order to promote the control of arms exports and the principles and criteria of the EU Code of Conduct on Arms Exports among third countries, *Official Journal of the European Union*, L75, 18 Mar. 2008; and Council Decision 2009/1012/CFSP of 22 Dec. 2009 on support for EU activities in order to promote the control of arms exports and the principles and criteria of the Common Position 2008/944/CFSP among third countries, *Official Journal of the European Union*, L348, 29 Dec. 2009, Article 1.

⁵ Bauer, S., Dunne, A. and Mičić, I., ‘Strategic trade controls: countering the proliferation of weapons of mass destruction’, *SIPRI Yearbook 2011*.

⁶ Unless otherwise stated, this chapter refers to conventional arms export controls.

⁷ Bauer, S., ‘Enhancing export control-related CTR (Cooperative Threat Reduction) programmes: options for the EU’, SIPRI Background Paper 6, Conference on Strengthening European Action on WMD Non-proliferation and Disarmament: How Can Community Instruments Contribute?, Brussels, 7–8 Dec. 2005, <www.sipri.org/research/disarmament/expcn/researchissues/resultoutput/papers_publications/BP6>, p. 4.

scanners for containers). A wide range of ministries and government agencies can also be involved in assistance programmes for different stages of the process, from licensing to enforcement and prosecution, including licensing agencies, customs, police, intelligence agencies and prosecution services.

Outreach and assistance are related to developments in approaches to export controls in Western Europe and North America and the international arms trade. National export controls have traditionally been regarded as a means of preventing states or other actors considered as threats to national security—or the security of allies—from gaining access to arms and military equipment. States have also regarded export controls as a means of contributing to international peace and security by restricting the supply of the instruments of war and repression to states that are involved in conflict or armed violence (including violations of human rights and international humanitarian law), or located in regions of tension. Outreach activities by states in Western Europe and North America also seek to promote these norms and values.

Since the end of the cold war, the burden on agencies involved in export licensing in Western Europe and North America has significantly increased. This is due to the fact that the dominant arms producers have become increasingly reliant on arms exports and collaborative production arrangements, and greater emphasis is placed on case-by-case assessments of particular transfers. At the same time, contemporary export control systems are required to facilitate legitimate trade as well as minimize the risk of arms transfers undermining international, regional and national peace and security. This balancing act is taking place in a competitive international arms market. EU producers, and the governments of states in which they are based, would like to ‘level the playing field’. One of the ways in which this can be achieved is through the adoption of their criteria and policies by states housing potential competitors.

Outreach and assistance projects usually have to overcome a range of challenges for both donors and beneficiaries. The main challenges for donors relate to lack of resources, in particular the availability of experienced personnel to discuss export control policy, practice and enforcement with counterparts from licensing agencies, customs and border services, in beneficiary countries. Challenges for beneficiaries can include: (a) lack of political will or interest;

(b) lack of technical expertise or qualified staff; and (c) corruption. A further challenge is that donors do not always coordinate their outreach and assistance activities to ensure efficiency in the delivery of assistance and its application in beneficiary states. This can also have negative consequences for beneficiaries as participation in a wide range of donor-sponsored outreach and assistance activities can take an already limited pool of experts away from their day-to-day duties for extended periods of time.⁸

A number of donors have outreach programmes and provide technical assistance for strengthening export controls in beneficiary countries. These outreach and assistance programmes tend to be driven by concerns over weapons of mass destruction (WMD) proliferation but also seek to strengthen conventional controls over arms exports, transit and brokering. The most active donors are: the United States, which has been particularly active in Central, Eastern and South Eastern Europe, but also in Asia, Latin America, the Middle East and to a lesser extent Africa; Japan, which focuses primarily on beneficiary states in Asia; and the EU and its member states, in particular Austria, Germany, Hungary, the Netherlands, Poland, Romania, Spain, Sweden and the UK, which have focused on EU candidates, European Neighbourhood Policy (ENP) states, trading partners and also strategic transit and trans-shipment hubs.⁹

III. EU CONVENTIONAL ARMS EXPORT CONTROL OUTREACH AND ASSISTANCE

The promotion of the Code’s principles was not among the priorities discussed within the EU’s Council Working Group on Conventional Arms Exports (COARM) in the first year following the adoption of the Code. Nevertheless, the first EU annual report in conformity with Operative Provision 8 of the Code of Conduct (EU annual report) noted that ‘the associated countries of central and eastern Europe and Cyprus, the European Free Trade Association (EFTA) countries, members of the European Economic Area (EEA) and Canada’ all agreed to align themselves with the Code of Conduct’s principles.¹⁰ COARM highlighted promotion of the Code’s principles as a

⁸ Bauer (note 7), p. 19.

⁹ Bauer (note 7), p. 19.

¹⁰ First Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports, *Official Journal of the European Communities*, C315, 3 Nov. 1999, p. 1.

priority guideline in the second EU annual report and it has continued to rank among the priority guidelines of COARM's work programme every year since. The development of EU outreach and assistance related to the Code and Common Position can be divided into three periods: 1999–2003, 2004–2007 and 2008–11.

Laying the foundations for COARM outreach and assistance, 1999–2003

In the period 1999–2003 four groups of states appeared to be the focus of outreach based on the principles and criteria of the Code, two of which also received assistance. The first group of states consisted of the EU's strategic partners—Canada, Russia, Ukraine and the USA—of which only Canada has informed the EU of its alignment with the Code. However, on 18 December 2000 the EU and the USA issued a declaration in which they announced that they would 'work jointly to encourage all arms exporting countries to adopt the principles and degree of transparency which we apply to our own exports'.¹¹ Since 2002 the declaration has not been highlighted among COARM's priorities.¹²

The second group of states consisted of the states of the EFTA of the EEA, which aligned with the principles of the Code during its first year of operation.¹³ These states have not received assistance from the EU. However, in November 2003 COARM decided that on a case-by-case basis it could consider sharing aggregated information on denials with non-member countries that have export control legislation and policy conforming to the standards set by EU member states.¹⁴ Norway is the only non-EU member state that has been granted access to aggregated information on denials. The first exchange took place on 18 November 2004.¹⁵

¹¹ 'Declaration by the European Union and the United States on the responsibilities of states and on transparency regarding arms exports', EU–US Summit, Washington, DC, 18 Dec. 2000, <<http://www.Eurunion.Org/Partner/Summit/Summit0012/Armsxpts.Htm>>.

¹² The joint declaration of 2000 was last mentioned in the 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, pp. 2–3.

¹³ The European Free Trade Association (EFTA) consists of Iceland, Liechtenstein, Norway and Switzerland. First Annual Report (note 10), p. 2.

¹⁴ Fifth Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports, *Official Journal of the European Union*, C320, 31 Dec. 2003, p. 2.

¹⁵ 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, p. 2.

The third group of states consisted of candidates for EU membership. During 1999–2003 this group consisted of the 12 states that joined the EU in 2004 and 2007. These states quickly aligned with the Code and in 2001 COARM declared it a priority to 'work towards greater involvement by the candidate States in the implementation of the Code'.¹⁶ In 2002 COARM proposed enhanced cooperation to implement the Code by sharing information on denials with EU candidates.¹⁷ In 2003 it was announced that acceding countries requesting assistance to ensure the harmonization of policies on arms export control and the full implementation of the Code's principles and criteria would receive assistance in drafting legislation and training officials.¹⁸ However, the main lesson learned from the experience of the EU enlargement of 2004 was that these activities had been insufficient preparation for the candidate states. This experience has strongly influenced the need for more developed outreach and assistance with EU candidates and potential candidates in South Eastern Europe and to ENP partners in Eastern Europe and the Mediterranean.

The fourth group of states consisted of potential candidate states in South Eastern Europe. Outreach activities occurred on an ad hoc basis involving EU member states and the EU. Croatia became the first state outside the strategic partners, EFTA and EU candidates to announce its alignment with the Code on 9 May 2002; it applied to join the EU in February 2003.¹⁹ Croatia was followed by other states in South Eastern Europe both in terms of alignment with the Code and EU membership applications.

The evolution of COARM outreach and assistance, 2004–2007

During 2004–2007 outreach and assistance to third countries evolved, with a particular focus on developing longer-term assistance for candidate and potential EU candidate states in South Eastern Europe, and tentative first steps were taken towards some ENP states in Eastern Europe. COARM outreach and assistance for South Eastern and Eastern Europe

¹⁶ Third Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports, *Official Journal of the European Communities*, C 351, 11 Dec. 2001, p. 3, 5.

¹⁷ Fourth Annual Report (note 12), p. 1, 4.

¹⁸ Fifth Annual Report (note 14), p. 1, 3.

¹⁹ Fourth Annual Report (note 12), p. 1.

during 2004–2007 can be grouped into three categories of activities: (a) an attempt to improve coordination of outreach and assistance conducted by EU member states; (b) a COARM letter campaign to raise awareness about the Code and seek alignment by third states; and (c) outreach seminars in South Eastern Europe conducted under the auspices of the presidency of the Council of the EU. In 2004 COARM agreed that member states should share information on their outreach and assistance activities via a Council Secretariat database.²⁰ Since 2006 the database has separated entries on outreach and assistance related to the Code from those for dual-use goods.²¹ A table containing information on outreach and assistance provided by EU member states has been published in the EU annual report annually since 2006.²²

The COARM letter campaign started in November 2004. COARM and the EU Personal Representative on Non-proliferation sent letters to the authorities of Albania, Belarus, Bosnia and Herzegovina, Iceland, the Former Yugoslav Republic of Macedonia (FYROM), Moldova, Serbia and Montenegro, Switzerland and Ukraine containing information on the Code, the recipients' national export control legislation and policies and interest in discussing practical implementation of the Code with the EU. By the end of 2005 only Albania, Bosnia and Herzegovina and Iceland had not responded.²³ A second letter campaign was carried out in April 2006 addressed to all of the states listed above and Croatia, Moldova, Montenegro and Turkey.²⁴ The letters provided information on the Code, offered enhanced dialogue on practical implementation of the Code and a list of points of contact in EU member states and relevant institutions. Several recipients replied with information on their own contact points.

²⁰ Sixth Annual Report (note 15), p. 2.

²¹ 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, p. 2.

²² Eighth Annual Report (note 21), p. 1. The Thirteenth Annual Report does not include information on bilateral outreach and assistance activities. This is due to the fact that the European External Action Service (EEAS) did not receive any information from EU member states regarding bilateral outreach and assistance activities during 2010. EU official, Communication with author, 11 Feb. 2012.

²³ 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, p. 2.

²⁴ A letter was sent to Montenegro in July 2006, after the dissolution of Serbia and Montenegro. Eighth Annual Report (note 21), p. 2.

The third method for outreach and assistance activities consisted of presidency outreach seminars.²⁵ The origins of the presidency outreach seminars can be traced back to the first EU-funded pilot project for strategic trade controls for dual-use items (pilot project 2004), which was implemented by SIPRI during 2005–2006.²⁶ This covered Bosnia and Herzegovina, Croatia and 'Serbia and Montenegro' as one country until their separation in 2006. The pilot project was funded by the European Commission as part of its commitment to implement the EU Security Strategy (2003) and the EU Strategy against the Proliferation of WMD (2003).²⁷ EU member state outreach and assistance projects have not traditionally distinguished between strategic trade controls for dual-use items and controls on exports of conventional arms. However, due to the fact that the Code is a Council of the EU instrument and strategic trade controls for dual-use items and technologies are covered by the Community's Common Commercial Policy and therefore fall within the competencies of the European Commission, this division has been carried over into EU outreach and assistance projects. However, in the course of implementing the pilot project, which focused only on dual-use items, participants from South Eastern Europe requested assistance and advice on matters pertaining to conventional arms export controls. In response to these requests, SIPRI took the initiative to organize seminars on conventional arms export controls in cooperation with the Council Secretariat and the United Kingdom's presidency of the Council of the EU in 2005 and the Austrian presidency in 2006. The seminars promoted the Code and its implementation in the region. To a considerable degree, these seminars established the format not only for the subsequent Finnish, German and Portuguese presidency outreach seminars of 2006 and 2007, which were also supported by SIPRI and the Council Secretariat, but also the regional seminars conducted under Joint Action 2008/230/CFSP and Council Decision 2009/1012/CFSP.

²⁵ EU member states and the presidency organized ad hoc joint outreach seminars with Georgia, Moldova, Turkey and Ukraine. Eighth Annual Report (note 21), p. 2.

²⁶ The German Federal Office of Economics and Export Control (BAFA) in partnership with SIPRI implemented two follow-up pilot projects during 2006–2008. BAFA is the implementing agent for the 'Cooperation in export control of dual-use goods' long term programmes, LTP 2008–11 and LTP 2011–13, which have built on the pilot projects. See BAFA, <<http://www.eu-outreach.info/>>.

²⁷ During this period the EU also organized outreach seminars with China, India and South Korea. Eighth Annual Report (note 21), p. 2.

EU funding for COARM outreach and assistance, 2008–11

Shortly before the Portuguese presidency outreach seminar of December 2007, which was held in Belgrade, COARM decided to secure EU funding for COARM outreach and assistance seminars. On 3 October 2007 COARM agreed that a joint action for outreach on conventional arms export controls would facilitate the practical implementation of Operative Provision 11 of the Code, as well as the following: the European Security Strategy; the EU Strategy to combat illicit accumulation and trafficking of small arms and light weapons (SALW) and their ammunition; the EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms; the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons; the action plans in the framework of the ENP; and the Council Conclusions on a legally binding international arms trade treaty (ATT).²⁸ On 17 March 2008, the Council adopted Joint Action 2008/230/CFSP on support for EU activities in order to promote the control of arms exports and the principles and criteria of the EU Code of Conduct on Arms Exports among third countries.²⁹ Joint Action 2008/230/CFSP represented the EU's first attempt to provide EU funding to conduct EU Code outreach and assistance activities.³⁰

Joint Action 2008/230/CFSP gave five objectives to be furthered at the seminars: (a) to promote the criteria and principles of the EU Code of Conduct on Arms Exports among third countries; (b) to assist third countries in drafting and implementing legislation to ensure effective control of arms exports; (c) to assist countries in the training of licensing officers to

ensure adequate implementation and enforcement of arms export controls; (d) to assist countries in the elaboration of national reports on arms exports and the promotion of other forms of scrutiny in order to promote transparency and accountability of arms exports; and (e) to encourage third countries to support the UN process aimed at the adoption of a legally binding international treaty establishing common standards for the global trade in conventional arms, and to assist in ensuring that they are in a position to comply with such possible common standards.³¹ The objectives of Joint Action 2008/230/CFSP consisted first of a political dimension relating to the promotion of the criteria and principles of the Code and support for an ATT and second of technical assistance aspects relating to drafting and implementing legislation, training licensing officers and elaborating national reports on arms exports.

Joint Action 2008/230/CFSP allocated €500 500 from the EU Community budget for regional seminars to be convened for the candidate and potential candidate countries of South Eastern Europe and ENP partners in North Africa and the Mediterranean and Eastern Europe, as well as Turkey and Ukraine. The seminars were to take place during the Slovenian, French, Czech and Swedish presidencies of the Council of the EU during 2008 and 2009 (see table 1).³² Of the six planned seminars, only the seminar with Turkey did not take place and only one of the remaining seminars had to take place in a different host country than initially planned.³³ As noted above, the presidency seminars took a regional approach to South Eastern Europe where all states were either recognized as candidate countries or potential candidates, and therefore all regarded as having EU membership prospects. As is discussed below, a strong correlation exists between recognition as having candidate status and aligning with the Code and Common Position. The

²⁸ A draft text for the proposed joint action was agreed by COARM in Nov. 2007 and on 6 Mar. 2008 the Working Party of Foreign Relations Counsellors (RELEX) endorsed the draft Council joint action and budget. Council of the European Union, Proposal for a Draft Joint Action on support for EU activities in order to promote the control of arms exports and the principles and criteria of the EU Code of Conduct on Arms Exports among third countries, 14434/07, Brussels, 26 Oct. 2007; and Council Joint Action 7361/08 on support for EU activities in order to promote the control of arms exports and the principles and criteria of the EU Code of Conduct on Arms Exports among third countries, Brussels, 6 Mar. 2008.

²⁹ Council Joint Action 2008/230/CFSP (note 4).

³⁰ Anthony, I. and Bauer, S., 'Controls on security-related international transfers', *SIPRI Yearbook 2009: Armaments, Disarmament And International Security* (Oxford University Press: Oxford, 2009), p. 474.

³¹ Council Joint Action 2008/230/CFSP (note 4), Article 1.

³² Council Joint Action 2008/230/CFSP (note 4), Annex, Article 1.

³³ Turkey responded negatively to the invitation to participate in the outreach and assistance seminars, explaining that it did not require assistance in this sphere. EU official (note 22). Joint Action 2008/230/CFSP foresaw the prospect of Turkey or Ukraine not wishing to participate in a joint seminar and stated that if this happened then one of the following would be selected for a seminar: Israel, Jordan, Lebanon, the Palestinian Authority or Syria. However, a replacement for Turkey was not selected. Council of the European Union, Final report on the implementation of Joint Action 2008/230/CFSP on support for EU activities in order to promote the control of arms exports and the principles and criteria of the EU Code of Conduct on Arms Exports among third countries, 17645/09, Brussels, 19 Dec. 2009, p. 2.

Table 1. EU outreach and assistance under Joint Action 2008/230/CFSP and Council Decision 2009/1012/CFSP

Beneficiary/ beneficiaries	Proposed host	Actual host and date	Implementing state or agency	Funding allocated (€)	EU action
South Eastern Europe	Slovenia	Slovenia, May 2008	Slovenia	68 745	Joint action
Turkey	Turkey	Cancelled	Slovenia	56 400	Joint action
North Africa	Egypt	Morocco, Dec. 2008	France	93 600	Joint action
Ukraine	Ukraine	Ukraine, Apr. 2009	Czech Republic	59 450	Joint action
South Eastern Europe	Albania	Albania, June 2009	Czech Republic	88 650	Joint action
Eastern Europe ^a	Georgia	Georgia, Oct. 2009	Sweden	116 500	Joint action
North Africa	Algeria	Algeria, Mar. 2010	BAFA	73 566	Council decision
South Eastern Europe	Serbia	Bosnia and Herzegovina, June 2010	BAFA	68 400	Council decision
Eastern Europe	Ukraine	Ukraine, Nov. 2010	BAFA	89 425	Council decision
South Eastern Europe	Croatia	Montenegro, Apr. 2011	BAFA	66 875	Council decision
Eastern Europe	Azerbaijan	Ukraine, Nov. 2011	BAFA	89 650	Council decision
<i>Four one-week study visits</i>			BAFA	328 000	Council decision
Croatia		Hungary, June 2011			
FYROM, Montenegro		Portugal, Oct. 2011			
Croatia, FYROM, Montenegro		Poland, Nov. 2011			
Croatia, FYROM, Montenegro		Czech Republic, Jan. 2012			

BAFA = German Federal Office of Economics and Export Control; FYROM = Former Yugoslav Republic of Macedonia.

^a Belarus did not attend this regional seminar. However, Sweden and Belarus held a bilateral meeting during the Swedish presidency of the Council of the EU.

Sources: Council Joint Action 2008/230/CFSP of 17 Mar. 2008 on support for EU activities in order to promote the control of arms exports and the principles and criteria of the EU Code of Conduct on Arms Exports among third countries, *Official Journal of the European Union*, L75, 18 Mar. 2008; Council Decision 2009/1012/CFSP of 22 Dec. 2009 on Support for EU activities in order to promote the control of arms exports and the principles and criteria of the Common Position 2008/944/CFSP among third countries, *Official Journal of the European Union*, L348, 29 Dec. 2009; and Thirteenth Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports, *Official Journal of the European Union*, C382, 30 Dec. 2011, table D, pp. 467–68.

rationale for a regional seminar for Eastern Europe could be questioned on several grounds. First, the decision to include Armenia and Azerbaijan in the same regional seminar posed a challenge for the organization of the Eastern Europe seminar, as Azerbaijan refused to actively participate in a seminar in which Armenia also participated.³⁴ Second, the countries invited to the Eastern Europe regional seminar have different profiles with regard to conventional arms exports. For example, Belarus retained arms production capabilities that continue to provide export revenues, while Armenia, Azerbaijan, Georgia and Moldova have limited arms production facilities for export. Surplus conventional weapons remain potential sources of exports for all states, but to very different degrees. Countries in the region are also more or less integrated with the Russian arms industry, which also affects the scope of their decision making on arms exports.

The EU member states decided in June 2008 to create an informal roster of experts to be available to participate in the seminars.³⁵ The roster has not overcome the fact that the seminar organizers rely on the goodwill of member states and the availability of their experts. In general, EU member states have provided representatives from licensing agencies and ministries of foreign affairs, with representatives of non-governmental organizations or arms industry from EU member states also participating.

The seminars lasted for two days and consisted of sessions on interpretation of Code criteria, controls on brokering and transit, transparency, an ATT and interaction with industry.³⁶ Beneficiary states were also encouraged to give presentations on their export control systems. The Code and user's guide were

³⁴ EU official (note 22).

³⁵ 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, p. 2.

³⁶ Council of the European Union (note 33).

provided to all participants in Russian for Eastern European seminars and local languages for South Eastern Europe.³⁷ There were several differences between the seminars for Eastern Europe and South Eastern Europe. First, the seminars for South Eastern Europe included half-day workshops that adopted a practical approach for providing assistance to licensing officers. EU member states had drafted case studies drawing on real licensing cases to be discussed with participants from South Eastern Europe. However, at the June 2009 seminar in Tirana, Albania, South East European countries presented case studies highlighting challenging issues or licensing cases that they had dealt with for discussion with colleagues from the region and from the EU. On this occasion, Croatia and Serbia drafted case studies for discussion.³⁸ Second, a representative from Norway was invited to participate in the seminar in Slovenia in May 2008 to discuss the functioning of the exchange of EU denials and consultations. South East European participants were then encouraged to contact EU member states regarding specific exports or denials. The seminar in Eastern Europe did not feature case studies but more general discussions on export control systems and there was no discussion of moving towards an exchange of information on denials as no state in the region is recognized as officially aligning with the Code or the Common Position.

A decision to continue the outreach and assistance seminar series for South Eastern Europe, Eastern Europe, and North Africa and the Mediterranean was agreed shortly after the last outreach seminar conducted under Joint Action 2008/230/CFSP in November 2009 and Council Decision 2009/1012/CFSP of 22 December 2009 on support for EU activities in order to promote the control of arms exports and the principles and criteria of the Common Position 2008/944/CFSP among third countries was adopted on 22 December 2009.³⁹ It was the first decision on arms export control outreach activities to be adopted after the entry into force of the Lisbon Treaty.⁴⁰ The Lisbon Treaty has resulted in a significant change to COARM working practices, in particular the introduction

of a permanent chair for COARM. A number of new opportunities and challenges are expected to arise from this development within COARM.⁴¹ For outreach and assistance purposes it represents a clearly identifiable EU institutional presence, which had previously been led by the rotating presidencies. It also offers the potential for a stronger institutional memory and use of the External Action Service (EAS) presence in beneficiary states. At the same time, the Council decision shared the same objectives as Joint Action 2008/230/CFSP, although the first item was changed to the promotion of 'the criteria and principles of Common Position 2008/944/CFSP'.⁴² As with Joint Action 2008/230/CFSP, Council Decision 2009/1012/CFSP was due to run for 24 months but its budget was increased to €787 000.⁴³ Of the five seminars, only two took place in the planned beneficiary states, with Ukraine hosting both of the Eastern European regional seminars as it joined the Eastern European regional seminar rather than hosting its own bilateral EU-Ukraine seminar. This introduced a new dimension for the Eastern Europe seminar, as one of the participants was now a member of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies and also met biannually with the EU troika to discuss developments with regards to the Common Position.⁴⁴ In addition, in June 2011 the Council of the EU imposed an arms embargo on Belarus that created political challenges for Belarusian participation in the November 2011 outreach and assistance seminar. Despite the sanctions, Belarus did participate in the event.

The seminars carried out under Council Decision 2009/1012/CFSP expanded on issues considered under Joint Action 2008/230/CFSP. Sessions were now devoted to implementation of the Common Position, but continued to consider interpretation of criteria, outreach to industry and an ATT. Beneficiary states also continued to hold presentations on their export

³⁷ Council of the European Union (note 33).

³⁸ Council of the European Union, Report on the seminar on the control of arms exports for the countries of South Eastern Europe, 11107/09, Brussels, 17 Jun. 2009, pp. 8–9.

³⁹ Council Decision 2009/1012/CFSP (note 4).

⁴⁰ Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community of 13 Dec. 2007, *Official Journal of the European Union*, C306, vol. 50, 17 Dec. 2007.

⁴¹ Bromley (note 1), p. 5.

⁴² Council Decision 2009/1012/CFSP (note 4), Art. 1.

⁴³ Council Decision 2009/1012/CFSP (note 4), Annex.

⁴⁴ The Common Foreign and Security Policy EU troika consisted of the European Commissioner for External Relations, the High Representative for the Common Foreign and Security Policy and the Minister of Foreign Affairs of the EU member state that held the presidency of the Council of Ministers. The Minister of Foreign Affairs of the EU member state that would be the next holder of the presidency of the Council of Ministers also often participated in the EU troika. This has changed since the Lisbon Treaty.

control systems. Significant in this regard, although more for confidence-building purposes than for strengthening export control systems, was the fact that during the November 2011 seminar for Eastern Europe both Armenia and Azerbaijan gave presentations on their export controls systems; Armenia had held presentations on its export control system at the seminars in 2009 and 2010, but Azerbaijan had not. In addition, East European participants were presented with case studies relating to transit and re-export to be discussed with EU member states during the November 2011 seminar. The resulting discussions suggested that this approach is definitely worth adopting for future seminars in the region, perhaps following the approach established in South Eastern Europe with beneficiary states providing case studies for discussion based on their own experiences. With regard to South Eastern Europe, the discussion on information exchange of denials that officially started under the Slovenian presidency outreach seminar in 2008 continued throughout Council Decision 2009/1012/CFSP with no final decision on how to facilitate the goal of enhanced cooperation announced at the conclusion of the April 2011 seminar in Montenegro. An announcement is expected in early 2012 on a system to facilitate this information exchange.⁴⁵

The increased funding for Council Decision 2009/1012/CFSP related to the fact that the sum was intended not only to cover five seminars, but also ‘a maximum of four up to one-month working or study visits of government and/or licensing officials’ either from EU candidate countries to EU member states or EU member states to candidate countries.⁴⁶ The final report for Joint Action 2008/230/CFSP proposed that export control staff could be given the opportunity to participate in staff exchanges.⁴⁷ Constraints on human resources in EU member states, in particular the availability of licensing officers for an extended secondment, meant that the staff exchange proposal was adapted to ‘working or study visits’.⁴⁸ The second round of activities made a distinction not only between South Eastern Europe and Eastern Europe, but also within South Eastern Europe between official EU candidate and potential candidate states. One of the most significant differences between Council Decision

2009/1012/CFSP and Joint Action 2008/230/CFSP was the designation of the German Federal Office of Economics and Export Control (BAFA) as the technical implementing agency, rather than entities selected by the rotating presidencies of the Council of the EU. BAFA was therefore the implementing agency for EU-funded outreach and assistance for export controls for dual-use items and conventional arms. However, the funding and programme activities for the two programmes cannot be favourably compared. The range of beneficiaries for the dual-use outreach assistance programmes funded under the Instrument for Stability (IFS) is also much wider than that for conventional arms export controls, which remains confined to South Eastern Europe and ENP partners.⁴⁹ The benefits of BAFA’s involvement in outreach and assistance for strategic trade controls on dual-use items and export controls for conventional arms have been stressed by EU member states and beneficiary states, such as sustainability, building on established partnerships, maintaining an institutional memory and coordinating with other donors.⁵⁰

IV. COARM EXPORT CONTROL OUTREACH AND ASSISTANCE: ASSESSING PROGRESS

Assessing the progress made towards achieving the stated objectives of Joint Action 2008/230/CFSP and Council Decision 2009/1012/CFSP is difficult. In particular, it is a challenge to discern if changes in the policies or practices of the beneficiary states are as a result of activities supported by the joint action and the Council decision, activities conducted by other donors or EU-funded outreach and assistance for strengthening strategic trade controls on dual-use items. Domestic factors are also likely to have played a role in achieving progress towards the stated objectives of the joint action and the Council decision. This section therefore considers whether there is evidence of progress towards the stated objectives, and whether it is possible to attribute this progress to activities supported by the joint action and the Council decision. Perhaps one of the most significant achievements of the outreach and assistance activities,

⁴⁵ EU official (note 22).

⁴⁶ Council Decision 2009/1012/CFSP (note 4), Annex.

⁴⁷ Council of the European Union (note 33), p. 3.

⁴⁸ EU member state licensing officer, Communication with author, 13 Jan. 2012.

⁴⁹ The EU project ‘Cooperation in export control of dual-use goods’ has expanded from four countries in South Eastern Europe in 2005 to 28 countries in six different regions in 2012. Federal Office of Economics and Export Control (BAFA) (note 26).

⁵⁰ Senior political adviser at the Swedish export licensing agency, Communication with author, 17 Jan. 2012.

albeit not an explicitly stated objective, has been the further development and strengthening of a network of experts in South Eastern Europe and the establishment of a network of experts in Eastern Europe, which are also connected to experts from EU member states. Furthermore, EU experts have noted that the outreach and assistance seminars have helped them greatly in thinking about ways to strengthen their own export controls systems and licensing practices—the so-called ‘inreach effect’.⁵¹

Promoting the criteria and principles of the EU Code and the EU Common Position

The easiest way to assess progress on this objective is if the beneficiary states have issued statements that they have aligned with the Code and the Common Position or if references have been made to the criteria in their national legislation. A more challenging approach would be to consider licensing decisions in the light of EU common criteria. This latter approach has not been adopted in this paper.

Four of the six states of South Eastern Europe have formally aligned themselves with both the Code and the Common Position (see table 2). Bosnia and Herzegovina, Croatia, FYROM and Montenegro aligned themselves with the Code before the first regional outreach seminar under Joint Action 2008/230/CFSP and their export control legislation at the time also explicitly referred to the criteria of the Code of Conduct.⁵² Despite the presidency seminars and the regional outreach seminars under Joint Action 2008/230/CFSP, and Council Decision 2009/1012/CFSP, Albania and Serbia have not formally aligned with the Code or the Common Position. However, Albania issued a decision of the Council of Ministers on

⁵¹ Portuguese licensing officer, Portuguese Ministry of Defence, Communication with author, 29 Jan. 2012.

⁵² Bosnia and Herzegovina: Law on export and import of arms and military equipment, *Official Gazette of BiH*, nos 05/03, 14/03, 33/03, 14/05, 56/05 and 75/05, Art. 6. This Law has been replaced but retains a reference to the criteria of the EU Code of Conduct: Law on control of foreign trade of goods and services of strategic importance for the security of Bosnia and Herzegovina, 12 Aug. 2010, Art. 9, <http://www.mvteo.gov.ba/zakoni/zakoni/Archive.aspx?template_id=50&pageIndex=1>; Croatia: Act on the export and import of military and non-military lethal goods, *Official Gazette of Croatia*, no. 86/08, Art. 37; FYROM: Republic of Macedonia 2008 Report on implementation of the United Nations Programme of Action to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects, Skopje, 31 Mar. 2008; and Montenegro: Act on foreign trade in weapons, military equipment and dual use goods, no. 01-2113/2, *Official Gazette of Montenegro*, no. 80/08, 26 Dec. 2008, Art. 18.

Table 2. Formal alignment with the criteria and principles of the EU Code and the EU Common Position

Country	Alignment with the EU Code (year)	Alignment with the EU Common Position (year)	Reference to the Code or the Common Position in national legislation
<i>South Eastern Europe</i>			
Albania	No ^a	No	Yes
Bosnia and Herzegovina	Yes (2005)	Yes (2009)	Yes
Croatia	Yes (2002)	Yes (2009)	Yes
FYROM	Yes (2005)	Yes (2010)	Yes
Montenegro	Yes (2007)	Yes (2009)	Yes
Serbia	No ^b	No	Yes
<i>Eastern Europe</i>			
Armenia	No	No	No
Azerbaijan	No	No	No
Belarus	No	No	No
Georgia	No	No	No
Moldova	No	No	No
Ukraine	No	No	No

FYROM = Former Yugoslav Republic of Macedonia.

^a Albania is not included in the list of states that have formally aligned with the Code or the Common Position. However, it issued a decision of the Council of Ministers in support of the Code in 2003.

^b Serbia is not included in the list of states that have formally aligned with the Code or the Common Position. However, Serbia included criteria of the Code in a bylaw in 2005.

Sources: European Union annual reports.

the Code in 2003 and Serbia included slightly amended criteria of the Code in a bylaw in 2005.⁵³ However, as neither has formally notified the Council Secretariat or the EEAS of this situation, neither is included in the

⁵³ Decision of the Council of Ministers no. 604, dated 28 Aug. 2003 on ‘Approving, in Principle, the EU Code of Conduct on Arms Exports’, Albanian State Export Control Authority, Annual report on export control for 2010, p. 10; Council of Ministers Decree on criteria for issuing licences for the export of weapons, military equipment and dual-use goods, *Official Gazette of Serbia and Montenegro*, no. 7/2005, Ministry of Economy and Regional Development, Republic of Serbia, Annual report on the transfers of controlled goods in 2009 (Belgrade, June 2011). The Serbian decree has made amendments to 3 of the EU Code’s 8 criteria. In the Serbian Council of Ministers Decree the reference to EU arms embargoes has been removed from criteria 1; an extra paragraph has been added to criteria 2 to exclude ‘measures prescribed by the law and undertaken for the purpose of fighting terrorism and other forms of criminal activities’ from the definition of ‘internal repression’; and the need to protect the interests of the army of Serbia and Montenegro has been added to criteria 5.

official list of states that have declared alignment with the Code or the Common Position (see table 2). Despite the lack of formal alignment by Albania and Serbia, it is possible to conclude that there is a strong correlation between being a potential candidate or candidate for EU membership and alignment with, or at least reference in national legislation to, the Code and the Common Position.

No state in Eastern Europe has applied for EU membership or formally aligned itself with either the Code or the Common Position. However, politicians in Georgia and Ukraine have expressed EU membership aspirations. BAFA is currently working with Georgia to draft new strategic export control legislation and has received a positive response from Georgian officials on the inclusion of the criteria of the Common Position in secondary export control legislation.⁵⁴ The Council of the EU and the member states have encouraged Ukraine to subscribe to the principles of the Code and the Common Position at the biannual EU–Ukraine troika summits and also via EU–Ukraine action plans. In 2005 Ukraine announced that it would take into account the political principles of the EU Code when considering the granting of export licences.⁵⁵ The November 2009 EU–Ukraine Association Agenda contained a commitment from both sides to ‘further cooperate on arms exports in the light of the content and principles of the Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment’.⁵⁶ However, Ukraine has never formally aligned itself with the Code or the Common Position. The tangible benefits of alignment for Eastern European states were not clearly presented during the outreach seminars for Eastern Europe in 2009, 2010 or 2011. Therefore, outreach and assistance activities under Joint Action 2008/230/CFSP and Council Decision 2009/1012/CFSP appear to have made limited

impact on promoting alignment with the Code and the Common Position in Eastern Europe.

Assistance in drafting and implementing legislation

It is unlikely that an annual two-day regional seminar can provide significant assistance in drafting and implementing legislation to ensure effective control of arms exports. However, such seminars have provided some information on national implementation of the Code and the Common Position by EU member states, in particular application of assessment criteria. Further, there have been presentations on national controls on brokering, transit, re-export and intangible transfers of technology at the seminars. Beneficiary states have also presented their own systems, highlighting new developments and challenges for the implementation of certain provisions and criteria, thus providing the basis for further discussions for potential bilateral assistance beyond the scope of COARM’s outreach and assistance. In the framework of the EU project ‘EU assistance in export control of dual-use goods’, BAFA has provided technical assistance as part of the programmes to enhance dual-use strategic trade control laws.⁵⁷ As most South East European states at the beginning of the project had one law covering controls for exports of dual-use items and conventional arms, assistance provided for developing legislation on dual-use strategic trade controls has also had a positive impact on legislation covering conventional arms export controls and its implementation. Due to the fact that South East European states have EU membership aspirations, and have received assistance funded by the EU, all states in the region have also introduced national laws on dual-use export controls that seek to align with EU Dual-Use Regulation 428/2009. COARM outreach has not directly provided the same level of assistance for drafting or implementing export control legislation for conventional arms.

Assistance in training licensing officers

The regional seminars provide several benefits for licensing officers. First, experienced licensing officers from EU member states and beneficiary states openly discuss their national policies and practices in the seminars. Second, the use of case studies has facilitated

⁵⁴ German Federal Office of Economics and Export Control (BAFA), Communication with the author, 27 Feb. 2012.

⁵⁵ Government of Ukraine, Information on measures undertaken by Ukraine to implement the UN 2001 Program of Action to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects, Report submitted to the UN Department of Disarmament Affairs, 2005. Accessed via the UN Programme of Action Implementation Support System, <<http://www.poa-iss.org/poa/poa.aspx>>.

⁵⁶ European Commission, EU–Ukraine Association Agenda to prepare and facilitate the implementation of the Association Agreement, Nov. 2009, para. 2.3 (ii), p. 12.

⁵⁷ German Federal Office of Economics and Export Control (BAFA) (note 26).

the sharing of knowledge, experience and sources of information for informing risk assessments. The case studies in South Eastern Europe that have been developed by beneficiary states have also enabled licensing officers from these states to express the challenges that they face on a day-to-day basis with regard to conducting and locating sources of information for informing risk assessments, as well as the political and economic pressures that can influence licensing decisions. Third, the seminars have provided an opportunity for licensing officers to exchange contact details, facilitate informal consultations and develop a network at the regional level as well as between EU member states and beneficiary states. However, the next steps towards enhanced cooperation to assist beneficiary states with information to inform licensing decisions have not been taken. It is now eight years since COARM declared a willingness to exchange aggregated information on denials with non-member states and seven years since the first exchange with Norway, the only non-member state that has been deemed eligible to participate in such an exchange. This issue was first raised with South East European states before the COARM outreach events commenced but progress has been slow.

Study visits for candidate countries were expected to be a significant development with regard to the training of licensing officers from South Eastern Europe. Officials from Croatia, FYROM and Montenegro conducted study visits to the Czech Republic, Hungary, Poland and Portugal during 2011–12. Although the study visits enabled officials from these beneficiary states to meet with a much broader range of EU member state agencies than at an outreach seminar, the actual visits resembled regional seminars, although carried out in EU member states rather than South Eastern Europe. The full potential of the staff exchanges provided for by Council Decision 2009/1012/CFSP was therefore not realized. The EU member state hosts, however, see merit in continuing the study visits as they have further contributed towards building trust and encouraging information sharing and requests for assistance and advice regarding risk assessments for particular licence applications.⁵⁸ Of the five declared objectives of COARM outreach and

assistance, progress has been most evident with regard to assistance for licensing officers.

Assistance in the elaboration of national reports and promoting other forms of scrutiny

Four of the six South East European states had produced at least one national report on arms exports before the first regional seminar conducted under Joint Action 2008/230/CFSP (see table 3). By August 2010 all six states had produced at least one national report.⁵⁹ There was a discussion during the first regional seminar for South Eastern Europe organized under Joint Action 2008/230/CFSP on the possibility of a regional version of the EU annual report for South East European countries.⁶⁰ The South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), assisted by a consultant from SIPRI, implemented this project. In 2009 five states in South Eastern Europe—Albania, Bosnia and Herzegovina, FYROM, Montenegro and Serbia—produced a regional report on arms exports, containing information on arms export licences granted during 2007.⁶¹ The report was modelled on the EU annual report and represented the first instance of the EU model being used by non-EU states. Two more regional annual reports have been produced covering activities in 2008 and 2009.⁶² SEESAC also provides the information contained in the reports in a searchable database—something that the EU has not provided for its annual reports despite prompting from civil society.⁶³ Joint Action 2008/230/CFSP and Council Decision 2009/1012/CFSP may have played a supporting role in developments with regard to reporting in South Eastern Europe. However, the groundwork had already been laid by the presidency

⁵⁹ Bromley, M., *The Development of National and Regional Reports on Arms Exports in the EU and South Eastern Europe* (South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC): Belgrade, Sep. 2011), p. 10.

⁶⁰ Tenth Annual Report (note 35), p. 2.

⁶¹ The states reached agreement on producing the report in June 2009 and it was published by the South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC) in Dec. 2009. SEESAC, *Regional Report on Arms Exports in 2007* (SEESAC: Belgrade, 2009).

⁶² Croatia has not provided information for inclusion in any of the regional reports and FYROM did not provide information for the report on activities during 2009.

⁶³ South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), Regional reports, accessed via a searchable database at <<http://www.seesac.org/new-activities/new-arms-export-controls/regional-reports/1/>>.

⁵⁸ Polish Ministry of Foreign Affairs official, Communication with author, 26 Jan. 2012; EU member state licensing officer (note 48); and Portuguese licensing officer (note 51).

Table 3. Production of national reports on arms exports and arms export controls

Country	Date 1st report published	Years covered by reports
<i>South Eastern Europe</i>		
Albania	Dec. 2009	2007–10
Bosnia and Herzegovina	Feb. 2005	2004–2009
Croatia	Aug. 2010	2009–10
FYROM	June 2006	2005–2006
Montenegro	July 2007	2006–2009
Serbia	Nov. 2007	2005–2009
<i>Eastern Europe</i>		
Armenia	–	–
Azerbaijan	–	–
Belarus ^a	2003	2002–2008
Georgia	–	–
Moldova	–	–
Ukraine ^b	Aug. 2006	2004–10

FYROM = Former Yugoslav Republic of Macedonia.

^a Belarus's national report explains developments in Belarusian arms export policies and a figure for the total number of licences issued.

^b Ukraine's national report is a Ukrainian language version of its submission to the UN Register of Conventional Arms. In 2006 reports were published for the years 2004 and 2005, which also contained aggregated information on the number of licences issued for export, import and transit of military and dual-use goods. This information on licences has not been attached to the reports in subsequent years.

Sources: SIPRI national reports database, <http://www.sipri.org/research/armaments/transfers/transparency/national_reports/sipri-national-reports-database>.

outreach seminars and the activities carried out by SEESAC with support from SIPRI, which were funded by Norway.

Two of the six states in Eastern Europe have produced at least one national report on arms exports and policies, but these cannot be compared favourably to those of South Eastern Europe. Belarus has produced six reports on its arms export policy and practices since 2003. Its first report for 2002–2003 included tables on licences, SALW exports and exports reported to the UN Register of Conventional Arms (UNROCA). Subsequent reports have included a link to its UNROCA submission and the total number of licences issued. Since 2006 the State Service of Export Control of Ukraine has provided 'annual reports on arms exports', which are Ukrainian translations of Ukraine's submission to UNROCA, but also include details of exports of SALW. Therefore, unlike reports

by states in South Eastern Europe, there is currently no information on the financial value of export licences issued or actual exports, broken down by destination and military list category for any state in Eastern Europe. There is also no information on licence denials and the criteria used for denying licences.

Encouraging support of the UN process towards an ATT

It is difficult to assess the impact of the regional seminars in encouraging support for the ATT process. All of the states of Eastern and South Eastern Europe, with the exception of Belarus, voted in favour of UN General Assembly Resolution 61/89 'Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms' in December 2006 and all subsequent UN General Assembly resolution votes, including UN General Assembly Resolution 64/48 'The Arms Trade Treaty' in December 2009. While it could have been deemed useful to include sessions on progress towards an ATT in the seminars conducted under Joint Action 2008/230/CFSP, when a limited number of states participated in the Open-Ended Working Group, since the first Preparatory Committee in July 2010 all UN member states have been present at ATT discussions. It has therefore not been necessary to report back in the regional seminars on the state of play with regard to an ATT. However, the EU is supporting ATT outreach activities in different regions of the world and reporting back from these meetings could be of interest to participants in the regional seminars for Eastern and South Eastern Europe.⁶⁴ Further, due to differences of opinion on matters of scope, implementation and application between EU member states, it is difficult to conceive of how the ATT session could have been dealt with differently in the regional seminars.

V. CONCLUSIONS AND RECOMMENDATIONS

Five general conclusions can be drawn from the preceding discussion. First, there has been limited progress with regard to the normative dimension

⁶⁴ United Nations Institute for Disarmament Research (UNIDIR), 'Promoting discussion on an Arms Trade Treaty', 2009–2010, <http://www.unidir.org/bdd/fiche-activite.php?ref_activite=431>; and UNIDIR, 'Supporting the Arms Trade Treaty negotiations through regional discussions and expertise sharing', 2010–2012 <http://www.unidir.org/bdd/fiche-activite.php?ref_activite=537>.

of activities conducted in Eastern Europe under Joint Action 2008/230/CFSP and Council Decision 2009/1012/CFSP. The EU will be unable to encourage third countries to align with the Common Position or produce national reports on arms exports without defining the benefits of alignment. There remain, of course, benefits for the EU and beneficiary states in training licensing officers and providing information on good practices with regard to the implementation and enforcement of export controls on conventional arms. On this point it is worth asking if it would be more effective to consider combining resources for assistance programmes for dual-use items and conventional arms, rather than having two distinct programmes that utilize the same implementing agent and in many cases the same EU member state experts. This could mean including issues relating to conventional arms export controls and their enforcement as part of the EU Long Term Programme, as occurs with US Export Control and Related Border Security (EXBS) assistance programmes in both Eastern and South Eastern Europe. This is an unlikely development due to the way in which competencies and financial instruments within the EU are organized. However, greater coordination could still be envisaged between EU-supported activities on conventional arms and dual-use items in order to maximize synergy and more efficiently use limited resources. For example, events could be held back-to-back if similar topics are being addressed and the same experts from donor and beneficiary states are expected to participate in activities on conventional arms and dual-use items.

Second, clearer distinctions should be made between the assistance rendered to states that have officially aligned with the Common Position and those that have not. At present, the dividing line largely correlates with states that are recognized as candidate and potential candidate states and those that are not. One method for making this distinction clearer is for assistance for drafting legislation for conventional arms export controls and implementing and enforcing controls for candidates and potential candidates that have aligned with the Common Position to be funded via the Instrument for Pre-Accession Assistance (IPA) for those countries. This approach would take into account the fact that states in South Eastern Europe require assistance in this sphere before acceding to the EU, which cannot be satisfied via an annual regional seminar. These states require more tailored technical assistance and regular contacts at the technical level.

Nevertheless, they should also continue to engage in regular contact with EU COARM representatives at the political level to help to build trust and ensure effective assistance and preparation for eventual EU membership via future Council decisions outlining the next round of COARM outreach and assistance activities. Options for an enhanced political dialogue should be considered for South East European states moving towards EU membership and full participation in COARM. Suggestions for dealing with alignment by states that are not candidate or potential candidate states are offered below (see 'Recommendations for promoting alignment with the Common Position').

Third, greater flexibility with regard to the programming for outreach and assistance activities could yield more positive outcomes. It is clear from the regional seminars that states have different needs with regard to putting in place effective export control systems. The regional seminars serve an important role in fostering regional networks of experts, but they could be further strengthened by sessions dedicated to, for example, issues relating to risk assessments for licensing officers, political issues for representatives of ministries of foreign affairs or enforcement issues for customs officers. These could be incorporated into the regional approach by having general sessions for all participants and specialist sessions running concurrently where licensing officers would talk only with other licensing officers, and the same for other participants. At the same time, it would be useful to consider expanding contacts to include bilateral activities (e.g. seminars, study visits or consultations) to address the specific needs of states, which is discussed in more detail below.

Fourth, the next Council decision represents an opportunity to clearly define the division of responsibilities for outreach and assistance to third countries in Eastern Europe, South Eastern Europe, and North Africa and the Mediterranean. A useful division of responsibilities for the outreach and assistance activities was developed during the most recent round of outreach and assistance seminars. The fact that BAFA is the implementing agent for both the dual-use items and conventional arms outreach is regarded as a benefit for coordinating outreach and assistance activities by EU member states and beneficiary states. EU member states via COARM should have a role in proposing issues to be addressed during outreach and assistance activities, but beneficiary states should still also be provided with

an opportunity to suggest issues for the agenda. It is crucial for the success and credibility of EU outreach and assistance that EU member states provide experts who are able to engage on the same issues as their counterparts from beneficiary states. Further, they should treat participants from beneficiary states as peers and not pupils. To this end, EU experts participating in outreach and assistance activities should be provided with introductory materials about the export control systems of the beneficiary states. The EEAS, and in particular the chair of COARM, should also play a key role in setting the agenda for outreach and assistance activities and ensuring that beneficiary states fully participate in outreach and assistance activities and that reference is made to the Common Position in dialogues with beneficiaries. The EEAS could also assure beneficiary states of enhanced cooperation after alignment and continue to promote the normative aspects of outreach—that is, the application of the criteria and the production of a national report on arms export policies and practices.

Fifth, there is an obvious need to consult with beneficiary states to find out their needs with regard to strengthening their export control systems, but also what activities are being undertaken by other donors to find potential areas of synergy and avoid duplication. Coordination, not only among different EU instruments, but also with other donors is essential. For example, South East European states could be treated as partners and given a greater sense of ownership in assistance activities by involving them more actively in the preparation of the seminars. More generally, the mapping of assistance is an issue that could be of particular importance if COARM decides to expand its outreach and assistance beyond candidates, potential candidates and the ENP states. If an ATT is successfully negotiated at the UN Conference on an ATT in July 2012, a number of potential signatories will probably require assistance to ensure that their national export control systems enable them to fulfil their responsibilities under such a treaty. The EU has already supported two rounds of outreach activities during 2009–12 to raise awareness and prepare states around the world for the ATT preparatory committees and the negotiating conference.⁶⁵ The principles

⁶⁵ Council Decision 2009/42/CFSP of 19 January 2009 on support for EU activities in order to promote among third countries the process leading towards an Arms Trade Treaty, in the framework of the European Security Strategy, *Official Journal of the European Union*, L17, 22 Jan. 2009; and Council Decision 2010/336/CFSP of 14 June 2010 on

and criteria of the Common Position have also been presented at seminars carried out as part of these activities. However, as the activities conducted under Joint Action 2008/230/CFSP and Council Decision 2009/1012/CFSP have shown, without concrete benefits to be accrued from alignment with the Common Position, alignment is likely to continue to be limited to candidates and states that already have comparable export control systems and principles.

Recommendations for promoting alignment with the Common Position

As part of the thinking behind the next round of outreach and assistance for ENP partners, it is necessary to define the benefits of aligning with the EU Common Position. To date, additional benefits of alignment have been extended only to states that are candidate or potential candidate states for membership or in EFTA. It is necessary to show that a state in Eastern Europe that aligns with the Common Position, and takes steps to demonstrate implementation of relevant aspects of the Common Position, should be eligible for enhanced cooperation.

At a minimum, European Neighbourhood Policy states that align with the Common Position could be beneficiaries of enhanced assistance and cooperation, such as bilateral seminars or more frequent study visits. This could be expanded to take the form of training modules to assist with implementation of the Common Position. Staff exchanges could be considered as a form of training.

Another option worth considering would be exploring ways to maintain contact between regional or bilateral seminars and how to share information. In the seminars in Eastern Europe and South Eastern Europe, participants from beneficiary states stressed that they require information to help inform their licensing decisions, for example information on brokers based in EU member states. One option to help facilitate ongoing information sharing on export control issues could be to utilize a web portal with access restricted to seminar participants. Such a portal would need to be regularly updated and ideally not be dependent only on the 24 months of funding that are expected to be attached to the next Council decision on outreach and assistance.

EU activities in support of the Arms Trade Treaty, in the framework of the European Security Strategy, *Official Journal of the European Union*, L152, 18 June 2010.

The portal needs to be established with a longer time frame in mind and with a view to fostering long-term communication facilitation and information exchange. It could contain relevant EU and UN documents, laws and regulations; contact points from the partner countries, member states and relevant EU institutions; updates on arms embargoes; news on developments in relevant regimes; templates of documents provided as part of licence applications; copies of forged or dubious end-user certificates; and other relevant information to assist in implementing export controls. This would represent enhanced cooperation rather than simply technical assistance for beneficiary states. Access to some information could be made accessible to all, while more sensitive information and enhanced exchanges could be provided only to those states that have aligned with the Common Position and have in place a robust export control system.⁶⁶

ABBREVIATIONS

ATT	Arms trade treaty
BAFA	Federal Office of Economics and Export Control
CFSP	Common Foreign and Security Policy
COARM	Council Working Group on Conventional Arms Exports
EEA	European Economic Area
EEAS	European External Action Service
EFTA	European Free Trade Association
ENP	European Neighbourhood Policy
EU	European Union
FYROM	Former Yugoslav Republic of Macedonia
IPA	Instrument for Pre-Accession Assistance
SALW	Small arms and light weapons
SEESAC	South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons
UNROCA	United Nations Register of Conventional Arms
WMD	Weapon(s) of mass destruction

⁶⁶ The South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC) has established a restricted access web portal for states in South Eastern Europe to exchange information on registered brokers, but this could be expanded to include other information. Further, it could be a tool that could be adapted for other regions. SEESAC brokering database, <<http://www.seesac.org/new-activities/new-arms-export-controls/new-brokering-database/1/>>.

A EUROPEAN NETWORK

In July 2010 the Council of the European Union decided to create a network bringing together foreign policy institutions and research centres from across the EU to encourage political and security-related dialogue and the long-term discussion of measures to combat the proliferation of weapons of mass destruction (WMD) and their delivery systems.

STRUCTURE

The EU Non-Proliferation Consortium is managed jointly by four institutes entrusted with the project, in close cooperation with the representative of the High Representative of the Union for Foreign Affairs and Security Policy. The four institutes are the Fondation pour la recherche stratégique (FRS) in Paris, the Peace Research Institute in Frankfurt (PRIF), the International Institute for Strategic Studies (IISS) in London, and Stockholm International Peace Research Institute (SIPRI). The Consortium began its work in January 2011 and forms the core of a wider network of European non-proliferation think tanks and research centres which will be closely associated with the activities of the Consortium.

MISSION

The main aim of the network of independent non-proliferation think tanks is to encourage discussion of measures to combat the proliferation of weapons of mass destruction and their delivery systems within civil society, particularly among experts, researchers and academics. The scope of activities shall also cover issues related to conventional weapons. The fruits of the network discussions can be submitted in the form of reports and recommendations to the responsible officials within the European Union.

It is expected that this network will support EU action to counter proliferation. To that end, the network can also establish cooperation with specialized institutions and research centres in third countries, in particular in those with which the EU is conducting specific non-proliferation dialogues.

<http://www.nonproliferation.eu>



FOUNDATION FOR STRATEGIC RESEARCH

FRS is an independent research centre and the leading French think tank on defence and security issues. Its team of experts in a variety of fields contributes to the strategic debate in France and abroad, and provides unique expertise across the board of defence and security studies.

<http://www.frstrategie.org>



PEACE RESEARCH INSTITUTE IN FRANKFURT

PRIF is the largest as well as the oldest peace research institute in Germany. PRIF's work is directed towards carrying out research on peace and conflict, with a special emphasis on issues of arms control, non-proliferation and disarmament.

<http://www.hsfk.de>



INTERNATIONAL INSTITUTE FOR STRATEGIC STUDIES

IISS is an independent centre for research, information and debate on the problems of conflict, however caused, that have, or potentially have, an important military content. It aims to provide the best possible analysis on strategic trends and to facilitate contacts.

<http://www.iiss.org/>



STOCKHOLM INTERNATIONAL PEACE RESEARCH INSTITUTE

SIPRI is an independent international institute dedicated to research into conflict, armaments, arms control and disarmament. Established in 1966, SIPRI provides data, analysis and recommendations, based on open sources, to policymakers, researchers, media and the interested public.

<http://www.sipri.org/>