

Business as usual?

*Assessing the impact of the Arab Spring
on European arms export control policies*

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Table of Contents

EXECUTIVE SUMMARY	2
1 SETTING THE SCENE	4
2 THE IMPACT OF EU INSTRUMENTS ON NATIONAL ARMS EXPORT POLICIES	8
2.1 Research on the harmonizing effect of EU decisions	10
2.2 Instruments for greater harmonization	11
2.2.1 Embargoes and restrictive measures	11
2.2.2 Application of common criteria	15
2.2.3 Information-exchange	25
2.3 Review of Common Position 2008/944/CFSP	28
3 ANALYSIS OF RESPONSES IN FRANCE, BELGIUM, GERMANY AND THE NETHERLANDS	30
3.1 France	30
3.1.1 Characteristics of French arms exports	30
3.1.2 French arms exports to the Arab region	32
3.1.3 Reaction to the Arab Spring	35
3.2 Belgium	40
3.2.1 Characteristics of Belgian arms exports	40
3.2.2 Belgian arms exports to the Arab region	42
3.2.3 Reactions to the Arab Spring	47
3.3 Germany	52
3.3.1 Characteristics of German arms exports	52
3.3.2 German arms exports to the Arab region	53
3.3.3 Reaction to the Arab Spring	56
3.4 The Netherlands	62
3.4.1 Characteristics of Dutch arms exports	62
3.4.2 Dutch arms exports to the Arab region	64
3.4.3 Reaction to the Arab Spring	66
4 ASSESSING THE IMPACT OF THE ARAB SPRING AND WAYS FORWARD	71
ENDNOTES	79

Executive summary

Within the EU, arms export policy is fundamentally a competence of the Member States; but in recent decades the EU has attempted to stimulate cooperation and harmonization of these policies in order to prevent European exports of military equipment that might be used for internal repression or international aggression, or might contribute to regional instability. In this report we examine whether the events of the Arab Spring have had an impact on European policies for arms exports to Arab states. Using a wide range of data sources, we focus on two specific questions: *“Have the events of the Arab Spring led to more restrictive policies by EU Member States on arms exports to Arab States?”* and *“Have the events of the Arab Spring led to a deepening of the process of harmonization of national arms export policies?”*

The EU can exert an influence on the arms export policies of the Member States through a number of instruments. First, the EU can adopt **restrictive measures** such as arms embargoes. In the context of the Arab Spring, our analysis shows that the EU arms embargoes on Libya and Syria - imposed by the European Council - were the only cases in which the Member States formally developed a common framework and implemented identical restrictive measures. The strength of arms embargoes lies in their legally binding character. Yet arms embargoes also have their weaknesses, since consensus in the EU Council is needed to establish them (and was absent e.g. on Egypt), or to prolong or adapt existing arms embargoes (which proved problematic on Syria). In addition, there seem to be no political or judicial penalties for Member States who break an EU arms embargo.

A second instrument is the national application of the **common EU assessment criteria** as defined in Common Position 2008/944. Despite political unrest in the region, EU Member States have considered the lion's share of arms export licences for the Middle East since 2011 as unproblematic on the basis of these criteria. Available data suggest that the value of EU arms exports to the region doubled between 2007 and 2012. In 2012, 25 EU Member States approved a total of approximately 4,500 export licences with a total value of more than €10 billion. Although the percentage of licences denied for Arab states increased in 2011-2012 compared to previous years, this proportion remains low (an average of 2-3%). Member States have also responded to the Arab Spring by suspending or freezing arms export licences, but these measures were mainly of a temporary nature and the countries hit by these measures were often not important customers.

A third important instrument for achieving more harmonization among national arms export policies within the EU is the encouragement of **information exchange** between Member States on arms export decisions. Our analysis suggests that the events of the Arab Spring and its impact on national arms export policies have been the object of information sharing in recent years. It also seems that the denial notification and consultation procedure is regularly used by Member States when the special circumstances that call for it are present. An increase in the use of these mechanisms for arms exports to the Arab region can be observed in 2012, but there is little evidence to suggest a specific impact of the Arab Spring.

In order to evaluate the impact of the Arab Spring we analysed how four Member States (France, Belgium, Germany and the Netherlands) responded to these events in their arms export policies. Our research shows that the Member States responded differently. One clear example is the fact that some Member States denied transit licences for arms exports to Arab states that were

previously permitted by other Member States. This suggests a **lack of a common EU policy**. The failure to achieve observance of the arms embargo on Libya by all EU Member States, and the lack of consensus for prolonging the arms embargo on Syria, clearly show that various EU Member States are assessing the current situation in these countries differently and are proponents of different measures. Our analysis suggests that national arms export policies are fundamentally shaped by national factors, rather than by an agenda of European harmonization. The export control policies of the different Member States result from a national perspective and from the evaluation of several factors: considerations of security and stability, foreign policy objectives, ethical criteria such as human rights and conflict prevention, and economic interests. Only in the second-tier arms exporting countries is the importance of a European 'level playing-field' frequently stressed.

Despite the national differences, a **similar pattern** emerged when comparing the arms export policies in these countries. Besides their formal adherence to the EU arms embargoes on Libya and Syria, most EU Member States have implemented - though often temporarily - restrictive policies on arms exports to various Arab states that have witnessed large-scale opposition demonstrations and significant levels of internal violence. However, we observed significant differences in the types of measures taken, the duration of these measures, and the recipient countries involved. For those Arab states that experienced no major uprisings or demonstrations, no policy break among EU Member States can be observed: the overwhelming majority of proposed arms exports for these countries continued to be approved.

In conclusion, **there is little evidence to suggest that the events of the Arab Spring have led to fundamentally more restrictive arms export policies** (with the exception of Libya) **or to a significant deepening of harmonization of arms export control policies of the EU Member States** vis-à-vis Arab customers. While the process of arms export harmonization initiated in the 1990s, aimed to achieve high standards for arms export control, this ambition no longer seems to be the driving force of the current harmonization process. The informal harmonization of arms export control policies that can be observed vis-à-vis the Arab States least affected by the events of Arab Spring indicates the *de facto* existence of a level playing-field within the EU, but it is a level playing-field of the lowest common denominator. Instead of a more restrictive approach to arms exports, several Member States have continued their relaxed arms export policy vis-à-vis the Arab region, or have further eroded their traditionally restrictive arms export policy for this region. One of the most visible impacts of the Arab Spring on national arms export policies seems to be increased parliamentary pressure on the government resulting in more transparency. In addition, the Arab Spring has also had an impact on the legal framework in some Member States.

While the Member States clearly learned some important lessons for their arms export policies from the Gulf War of 1990-1991, the events of the Arab Spring have not led to a similar wake-up call. Instead of strengthening the impetus for more harmonized and restrictive arms export policies, the current developments seem to be heading into the opposite direction. **The lack of a more uniform interpretation and implementation of the EU Common Position for arms exports to the most sensitive destination countries, and the lack of more restrictive arms export policies for arms exports to the other Arab states, undermine the development of a credible EU Common Foreign and Security Policy (CFSP)**. Greater caution is needed when considering arms exports to countries in the Arab region if the EU does not want to lose part of its credibility, and put at risk the legitimacy of its CFSP in general and its human rights policy in particular.

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1 Setting the scene

Three years ago, protests against the ruling regimes broke out in various Arab states. This wave of protest – often referred to as the “Arab Spring” – started at the end of 2010 in Tunisia, but quickly spread in early 2011 to other Arab countries in North Africa and the Middle East. The causes of these protests were different in each country, but a common denominator was that they were directed against those in power. The outcomes of these protests also varied widely. In Tunisia the protests grew into a revolution in which the president was driven from power. In Egypt the president who had ruled the country for more than thirty years was forced to step down following repeated demonstrations, but the newly elected president was also driven from power after large-scale protests, and replaced by an army General. In Libya and Syria, non-violent protests were transformed into an armed conflict between the regime and rebel groups. In most other countries, the regime change was less clear or even non-existent. In these countries protests varied from large or medium-sized demonstrations (for instance in Bahrain, Jordan or Algeria) to incidental protests (for instance in Saudi Arabia, Lebanon or Kuwait). Only a few countries, such as Qatar and the United Arab Emirates, were apparently untouched by the wave of protests.¹

Soon after the outbreak of the Arab Spring, it became clear that the armaments used in the affected countries had often been made in Europe. This has sparked a lively debate in a number of European countries on the desirability of supplying weapons and law enforcement equipment to the Arab world.

The European Union (EU) is an important supplier of military equipment for the Arab States. This is not surprising given that EU Member States, taken as a whole, constitute the world’s second largest supplier of conventional weapons worldwide (28%), behind the United States (30%) but before Russia (26%) and China (5%).² With licensed arms exports valued at €10.2 billion in total, Arab states accounted for a quarter of the value of European arms exports in 2012, making this region the second most important destination for European arms exports. Despite the importance of Arab states for European arms exports, however, the EU as a whole has not developed a common policy on exporting arms to the Arab region. This is because the decision whether or not to export arms is not a European decision; in the European Union, Member States retain the basic competence for arms exports control. They adopt their own legislation, are responsible for issuing arms export licences, and have their own export control policies. The role of the EU is limited to an attempt to harmonize the arms export policies of the various EU Member States with one another.

Immediately after the outbreak of the Arab Spring, EU Member States rapidly reviewed their arms export policies. In most EU Member States the initial reaction was to refuse, suspend, revoke, recall and/or “put on hold” licences for arms export to the Arab region. Since no EU-wide restrictions were imposed on arms exports to the affected countries, with the exception of the arms embargoes on Libya and Syria (see *infra*), every Member State decided for itself how to handle its licences for the various Arab states.³ The British government, for example, reacted by suspending 158 licences in 2011 and by a review of its procedures. For exports to Libya (which later became subject of an EU arms embargo) all arms export licences were revoked, while for a number of the other countries initially affected, all licences were reviewed but only a selection of them were revoked.⁴ A different picture emerges when looking at France’s licensing decisions in the first

¹ Regarding Egypt, for example, the British government decided that licences for goods such as naval navigation and radar equipment should not be revoked, while for Bahrain the Government approved licences for aircraft components for the Air

weeks after the outbreak of the Arab Spring. France reacted by suspending export licences for the export of weapons, law-enforcement material and explosives to Egypt, followed by the suspension of arms export licences to Bahrain and Libya.⁵ In the first half of 2011, the Dutch government decided not to issue licences for arms export to Bahrain, Egypt, Yemen, Tunisia and Saudi Arabia for an indefinite period.⁶ The first reaction of the Flemish government (in Belgium) was to place all arms export licences to the Arab region “on hold”, but soon this decision was limited to exports to Bahrain, Egypt, Libya, Oman and Tunisia.⁷ In early March, Sweden announced that it was halting arms exports to two unnamed Arab countries, presumed to be Tunisia and Egypt.⁸ In Finland, the Ministry of Foreign Affairs did not cancel export licences already granted, but the export licensing department requested companies to refrain from arms exports destined for the Arab world. A number of export licence procedures were temporarily halted. Extant licences were, however, not revoked and by May 2011 the normal practice had resumed.⁹

The events of the Arab Spring sparked much criticism of European arms export policies vis-à-vis the Arab states. Several international and national non-governmental organizations (NGOs) working on the arms trade are very sceptical about the idea of increasingly restrictive and harmonized European arms export policies. In recent years, the current arms export policies of various EU Member States towards the Arab region have attracted much criticism from international and national NGOs who believe that in most states, national economic interests are given too much weight in the decisions whether or not to issue arms export licences destined for the Arab region.¹⁰ Critical voices were also heard from the European and national parliaments. For instance, in December 2012, the Directorate-General for external policies of the European Parliament published a paper on EU Action for Human Rights in the Middle East and North Africa (MENA), where one of the recommendations was that EU Member States must demonstrate greater caution in their arms export policy for countries in the Middle East and North Africa if the EU wanted to avoid losing some of its credibility and legitimacy: *“The EU must avoid double standards in the conduct of its relations with third countries and between its human rights policy and other external policies. ... In the interest of credibility and legitimacy, the EU must review with greater scrutiny its arms export control policies to the MENA region, given the direct link to human rights abuses”*.¹¹

In response to this criticism, most EU Member states reviewed their existing arms export policy and in particular their arms export policies vis-à-vis Arab regimes. We might therefore expect that the events of the Arab Spring would have had an impact on European policies for arms exports to Arab states. In this report we will examine whether such an impact can in fact be observed, focusing on two aspects: the restrictiveness of national control policies, and the degree of harmonization of these policies among the different Member States. Confronted with the wave of protests, violence, and the use of European weapons for the violent repression of legitimate demands for more democracy, we would expect EU Member States to have reviewed their arms export policies towards the region and decided to implement (more) restrictive policies. On the other hand, the sales of military equipment by the European defence industry to its own markets have been shrinking mainly as a result of the recent economic downturn in Europe and the accompanying cost-cutting measures. Between 2001 and 2010 the total annual defence spending of the EU Member States declined by 22%: from €251 billion to €194 billion. European defence companies, supported by their national governments and the European Commission, are therefore increasingly relying on exporting their products to third countries.¹² Since Arab states in the MENA region are considered a lucrative market for arms exports, more restrictive arms export policies are not a foregone conclusion. Moreover, with a view to stabilizing the regional security situation, EU

Force. For the other Arab countries, for example Saudi-Arabia, all licences were reviewed but it was decided not to revoke or suspend them.

Member States might also choose to continue arms exports to the region so as to support those in power in the Arab states in restoring order. Given this context, it is not immediately clear how EU Member States responded to events of the Arab Spring and whether these events have actually led to more restrictiveness in European arms export policies. Our first research question therefore is:

Have the events of the Arab Spring led to more restrictive policies by EU Member States on arms exports to Arab States?

Since the 1990s a process of harmonization between the different national arms export policies has been pursued in the EU, with the adoption of an EU Code of Conduct in 1998 and the Common Position 2008/944/CFSP in 2008 as milestones in the process. This drive for more harmonization was partly spurred by the observation that Western troops had to fight an enemy using European-made military equipment in the 1990-1991 Gulf War; it was handled in the framework of the development of a European Common Foreign and Security Policy (CFSP). Previous research has shown that this process effectively led to greater harmonization in certain fields of arms export policy (see chapter 2). The process of harmonization is currently largely driven by the national implementation of Common Position 2008/944/CFSP, which sets eight common criteria that must be applied by Member States as minimum standards when assessing export licence applications, and establishes mechanisms for information exchange between Member States (see chapter 2.2). In 2012 this Common Position was reviewed by the Council, as required by article 15 of its text. This review process was thus happening at the same time as the events of the Arab Spring unfolded, and the Council explicitly acknowledged the connection: *“The Council renews its commitment to promote cooperation and convergence in Member States’ policies to prevent arms exports that might be used for internal repression, international aggression, or contribute to regional instability. Such commitment becomes even more relevant in the wake of the recent developments, such as those in the Middle East and North African region”*.¹³ We may therefore expect the events of the Arab Spring to have stimulated the ongoing process of harmonization. Yet not all observers concur with this view. For example, a recent study exploring the degree of harmonization of European arms export policies vis-à-vis Libya, and analysing the impact of the Common Position, concluded that EU Member States’ arms exports to countries affected by the Arab Spring had reinforced long-standing concerns about the interpretation of the assessment criteria of the Common Position and about the harmonizing effect of this instrument. This study recommended a detailed assessment of how Member States implemented the EU Common Position in light of the events of the Arab Spring.¹⁴ That is exactly what we will provide in this report. Our second research question is therefore:

Have the events of the Arab Spring led to a deepening of the process of harmonization of national arms export policies?

Harmonization and restrictiveness in European arms export policies are considered to go hand-in-hand. The ultimate goal of the European attempt to reinforce cooperation among Member States and to promote convergence in arms exports control was to set high common standards for arms transfers and to prevent the export of equipment that might be used for internal repression or international aggression or might contribute to regional instability. In the literature and in policy circles, this link between harmonization and restrictiveness in European arms export policy is still often made. The commonly received idea is that the trend towards more harmonized national arms export policies has resulted in more restrictive policies. By examining the potential impact of the events of the Arab Spring on the restrictiveness as well as the level of harmonization, we can also directly test the validity of this presumed link between the two aspects of European arms export policy.

Most of the attention devoted to European arms export to the Arab region has focused on controversial arms deliveries to countries in armed conflict - for instance, the debate on arms deliveries to the different actors in the Syrian conflict. Yet weapons play an important role not only in conflict-ridden countries, but also in the other countries affected by the Arab Spring. For instance, weapons have frequently been used by those in power to successfully suppress protests and restore order. Even in the countries that have so far remained relatively stable in recent years, the risk of the actual use of arms has increased significantly in this volatile region. In this report we will therefore address European arms export policies toward the Arab region as a whole, rather than focusing only on a selection of the countries most gravely affected. Thus we will not only analyze arms European arms export policies vis-à-vis Libya, Syria or Egypt, but also vis-à-vis Algeria, Bahrain, Iraq, Jordan, Kuwait, Lebanon, Morocco, Oman, Qatar, Saudi Arabia, Tunisia, the United Arab Emirates and Yemen. Importantly, this report will not contain an analysis of the situation within these various Arab recipient countries, nor reflect on the appropriateness of the individual arms exports licences issued. In this report we focus rather on the policy guidelines and licensing practice concerning arms exports from the EU to Arab states. Several data sources have been used for the purpose, including the official annual EU reports on arms exports published by the Council Working Group on Conventional Arms Exports (COARM)ⁱ, national arms exports reports published by the governments of the Member States, the SIPRI arms transfers database, various parliamentary and policy documents, and media articles. The preliminary analyses for this report of French and German arms export policies vis-à-vis the Arab region were provided by SIPRI.ⁱⁱ

In the second chapter we shall analyse the potential impact of EU instruments on national arms export policies. First, we describe the results of earlier studies on the impact of EU harmonization efforts on national export policies. As we shall see, this literature provides us with some mixed conclusions regarding this impact. Second, we will use the available data to analyse how the three main instruments for harmonization (restrictive measures, common criteria and information exchange) have been treated by Member States when dealing with arms export licences for the Arab Spring. In a third section we will analyse the review process carried out by the Council on the Common Position. This survey of the potential impacts of EU instruments on national arms export policies will provide us with a general framework for analyzing the impact of the Arab Spring. Yet to truly evaluate this potential European impact, we need to go deeper and look at how different Member States responded to the Arab Spring in their arms export policies. In the third chapter we therefore focus on the arms export policies towards the Arab region of four Member States. For the purpose of comparison we choose two large arms exporters to the region (France and Germany) and two second-tier arms exporters to the region (Belgium and the Netherlands). In the fourth chapter we sum up the results of our analyses and explore possible ways forward.

ⁱ The EU Member States annually send data to European Council Working Group on Conventional Arms Exports (COARM) on licence applications granted and denied. This Working Group gathers the data and publishes an annual synthetic overview of arms export licences granted by the 27 EU Member States. In these annual reports, the number and value of licences granted by each separate EU Member State for each recipient country are given. Based on this annual overview, we are able to construct a picture of the features of actual licensed European arms exports. We must, however, exercise caution when interpreting the COARM figures, bearing in mind that there are occasionally material errors and shortcomings in these reports. Further, the data only concern products listed in the Common Military List of the European Union while some Member States also frequently grant or deny export licences for military or law enforcement equipment that is not listed in the Common Military List. In addition, some types of export licences used by a number of Member States are not recorded in the annual COARM report

ⁱⁱ Pieter Wezeman provided an analysis of German arms export policy. Lucie Beraud-Sudreau and Pieter Wezeman provided an analysis of French arms export policy.

2 The impact of EU instruments on national arms export policies

European arms exports are mainly generated by the activities of the defence industry, and by foreign sales of surplus equipment by European armed forces. Europe is characterized by a strong defence industry. The European Commission (EC) estimates that the European defence industry has a turnover of €96 billion in 2012 and directly employs about 400,000 people.¹⁵ The large scale of the European defence industry is illustrated by the list of 100 largest arms-producing and military service companies in the world.¹⁶ This list includes 30 European companies from 11 different countries, such as *BAE Systems* (UK), *EADS* (Trans-European), *Finmeccanica* (Italy), *Thales* (France) and *Rheinmetall* (Germany).¹ Although these 30 largest companies represent a significant share of the total European defence market turnover, a large number of other European companies also generate substantial income on the defence market: for instance producers of small arms and light weapons such as *FN Herstal* (Belgium), *Heckler & Koch* (Germany), and *Glock* (Austria), and a network of small and medium-sized enterprises (SME) mainly active as second- or third-tier sub-contractors for the larger system integrators. According to the Commission, more than 80% of the investment in defence equipment by Member States is spent nationally¹⁷, but international arms transfers are of increasing importance. Data from the official annual reports of the Council Working Group on Conventional Arms Exports (COARM) indicate that the total value of arms export licences granted by EU Member States has varied annually between €27.1 and €40.3 billion since 2007. Importantly, approximately 80% of licensed arms exports are carried out by five countries: France, Italy, Germany, the United Kingdom and Spain. The remaining 20% (by value) of licensed arms exports is accounted for by second-tier arms exporting countries such as Sweden, Austria, Belgium and the Netherlands. About half of all EU Member States do not export military equipment, or only relatively modest amounts. A growing proportion of the EU's arms exports are delivered to countries outside the EU.¹⁸ The recent economic downturn in Europe and the accompanying cost-saving measures have led to shrinking defence budgets in the EU. European defence companies are therefore increasingly relying on the export of their products to third countries. This effort to compensate for the decreasing European defence demand by seeking access to markets in third countries is backed by the European Commission¹⁸ and by many political parties in the EU.¹⁹

Arms export policy is fundamentally a competence of the Member States, but in recent decades the EU has attempted to stimulate harmonization in this field. Initial attempts to harmonize the EU's foreign and security policy began in the 1970s and intensified in the 1990s with the adoption of the Common Foreign and Security Policy (CFSP) in 1993 and the European Security and Defence Policy (ESDP) in 1999. This created a legal basis for European attempts to harmonize national arms

¹ The annual arms sales of each of these 30 companies exceeds €700 million. While some of these large companies are almost exclusively focused on the defence market (e.g., arms sales account for 95% of the total turnover of BAE Systems), for other companies this market is of secondary importance - Rolls Royce for example generates about 25% of its turnover on the defence market. Most of these large companies are system integrators that produce and sell complete weapon systems such as aircraft or vehicles. The other European companies that are ranked in this top 100 focus on the production of military electronics and missile systems. The annual arms sales of these 30 companies account for approximately 30% of the total amount of arms sales by the global top 100 defence companies.

¹⁸ Despite this trend, official COARM data show that licensed European arms exports still significantly consist of transfers between EU Member States: 30-40% of all licensed arms exports have another EU Member State as recipient country. This includes transfers both of fully assembled weapon systems delivered to the final end users, and components from sub-contractors delivered to larger system integrators.

export policies.²⁰ The first significant steps in the European harmonization of national arms export policies were taken in the wake of the 1990-1991 Gulf War when it became clear that Western troops were confronted with an enemy using arms made in Europe.^I The relatively restrictive national arms export policies of various EU Member States seemed to have been ineffective, given that some EU Member States did indeed export military goods to Iraq in the period preceding the conflict. The European Council voiced its concern accordingly about the proliferation of conventional weapons and weapons of mass destruction to unstable regions, and the EU Member States decided to cooperate on a common vision for arms exports control, based upon eight assessment criteria. The Council Working Group on Conventional Arms Exports (COARM) developed these criteria into a politically binding European Code of Conduct for arms exports, which was adopted by the Council of the European Union in 1998. The adoption of the Code of Conduct was an important step towards greater harmony among the EU Member States since it included, for the first time, minimum standards that the various EU Member States had to base themselves on when assessing an arms export file. Further, a number of practical agreements were made with a view to improving cooperation among the Member States and increasing transparency on the implementation of arms export policy. In 1998, the COARM Working Group was charged with the task of follow-up, reporting, and evaluation of the Code of Conduct.

In 2008, the politically binding Code of Conduct was converted into the legally binding Common Position 2008/944.^{II} The adoption of a legally binding Common Position on arms export was not an easy process: *“in a domain as sensitive as the arms trade, not all the EU member states considered it a foregone conclusion that their national policies should be subjected to binding EU agreements”*.²¹ The Common Position essentially leaves the competence and responsibilities for arms export control with the Member States, but introduces mechanisms and instruments aimed at harmonizing the various states’ national export control policies. Besides the eight criteria that must be used by the member states in their licensing procedures, the Common Position also contains descriptions of procedures to promote information exchange and convergence between national export control policies.^{III} ²² As noted, COARM is responsible for following up the Common Position among the Member States. The core activities of COARM are updating the User’s Guide (see *infra*), managing a denial notification database (see *infra*), and compiling the annual reports that give an overview of arms exports licensed and denied by the EU Member States. In addition, members of the COARM working group – which consists of representatives of national licensing administrations – have meetings at regular intervals (approximately bi-monthly) to discuss their national export control policies and the implementation of the Common Position.²³ COARM thus plays a crucial role in the challenge of harmonizing the different national arms export control policies^{IV}.

Despite the EU Member States’ basic autonomy in their arms export policies, the EU can exert an influence on these policies through a number of instruments. Three important types of instruments can be distinguished: the adoption of restrictive measures such as arms embargoes, the application

^I Other important factors that motivated the drive to harmonize European arms export policies were (1) the consolidation and internationalization of the European defence industry in the 1990s, and (2) a growing emphasis on conflict prevention after the end of the Cold War that led to more ethical foreign policies. For more information, see Bromley, M. & Brzoska, M. (2008), “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*, 13: 333-356.

^{II} Compared to the Code of Conduct the content of the Common Position was not very different, but the scope was enlarged. For example, the common criteria must now be applied not only to arms exports, but also to other types of transactions such as transit and the brokering of military equipment.

^{III} This takes place within the context of the EU CFSP and thus remains based on voluntary cooperation by the Member States.

^{IV} COARM has in recent years also been involved in the review of the Common Position and in the negotiations for the Arms Trade Treaty (coordination of Member States’ positions).

of the shared assessment criteria by member states when considering arms export licences, and the existence of various forms of information exchange such as the denial notification obligation. In this chapter we will use the available data to analyse how these three instruments have been applied by the Member States during the Arab Spring. First, however, we provide an overview of the results of various studies on the harmonizing impact of EU decisions with regard to arms export policies of the Member States.

2.1 Research on the harmonizing effect of EU decisions

In recent years several studies have been undertaken to assess the attempt made in the EU Code of Conduct and the Common Position to harmonize national arms export policies.²⁴ A 2003 study on the EU Code of Conduct for arms exports concluded that while national governments retain the basic control of decision-making on applications for arms export licences, it may be supposed that the application of common assessment criteria, the regular discussions within COARM, and the process of information exchange have led to more harmonization in policy outcomes.²⁵ A 2008 study by Bromley and Brzoska analyzing quantitative arms export data arrived at mixed conclusions. The results of this analysis indicated that there was little evidence that the adoption of the Code of Conduct had improved harmonization of national arms export policies. With respect to restrictiveness, some impact of the Code of Conduct on national arms export policies was detected, but this impact was limited to reducing arms export to the worst violators of norms laid down in the Code of Conduct, especially with regard to human rights violations and conflict. Hardly any impact in terms of applying the broader norms (arms control, democracy and economic development) was detected.²⁶

Another 2008 study by Bromley used a different approach to examine the possible domestic impact of the EU Code of Conduct's development and implementation in general, and the possible impact on greater harmonization of national export policies across the EU, in particular. This study used qualitative interviews with national key persons to examine the developments in the arms export policies in the Czech Republic, the Netherlands and Spain. The results of this study showed that the development of the EU Code of Conduct has impacted on national export policies, but that this impact is multi-faceted and needs a nuanced appreciation. An important distinction should be made between observed impacts upon the processes followed in EU Member States' arms export policies, and upon the policy outcomes. The strongest evidence of an impact can be found in the harmonization of national processes, and in particular in increases in transparency and parliamentary accountability across the EU. This is interesting since the EU Code of Conduct was never intended as a tool to promote national transparency. Especially in countries that were not so transparent to start with, the implementation of the Code of Conduct and its new reporting requirements have led to greater public transparency. This has led to more information being available on arms exports, which in turn has led to political parties and civil society in some Member States citing examples from other Member States to push for domestic change. In this way the Code's implementation has indirectly, through the process of benchmarking, increased the levels of parliamentary accountability across the EU.

Bromley rightly points out that assessing the impact of the Code of Conduct on policy outcomes is much more difficult. Interestingly, the government officials interviewed in the three countries under study insisted that the Code of Conduct had not led to any changes in domestic decisions on

arms export license applications. They stated that broader economic and political factors, both domestic and international, had played a much more decisive role in the decision process. The value of the Code of Conduct seems to be limited to informing and strengthening the reasoning behind national decisions – for example in debates with other government agencies, parliament, industry or civil society – rather than changing these decisions. The study therefore concluded that despite the harmonization of national processes, there was little evidence to suggest that the EU Code of Conduct had led to significant harmonization of national export policy outcomes.²⁷

In 2012, an assessment of the impact of the EU Common Position indicated that the trend of increasing transparency in the EU annual reports and the national reports,¹ observed after the implementation of the Code of Conduct, had continued after the adoption of the Common Position; but there were signs that this dynamic might be losing its momentum. Here the study mentioned the facts that the three largest EU arms exporters still did not make full submissions to the EU annual report; that several Member States continued to have difficulties in collecting and submitting detailed data on actual arms exports; and there was a long delay in publishing the annual EU report. This study also briefly explored the degree of harmonization among national arms export policies by analyzing the EU Members States' responses to the Arab Spring in general and their application of the common EU criteria to arms export decisions vis-à-vis Libya in particular. The study concluded that *"EU member states' arms exports to states affected by the Arab Spring serve to underline long-standing concerns about the manner in which the criteria of the EU Common Position are interpreted at the national level and the extent to which the instrument has succeeded in achieving more harmonized arms export policies"*.²⁸ A 2013 study on adherence to the criteria of the EU Common Position came to a similar conclusion. An analysis of the available data and some case studies suggests that EU Member States still interpret the common criteria differently and that harmonization at the European level is still lacking.²⁹

Taken together, previous research suggests there is little evidence that decisions on the granting of export licences have been harmonized significantly since the adoption of the Code of Conduct. Although the Code of Conduct and the Common Position have led to a greater harmonization of control procedures and to more information exchange and consultation between member states, experts believe that greater harmonization in the ultimate decisions on arms exports has not necessarily been achieved.³⁰

2.2 Instruments for greater harmonization

2.2.1 Embargoes and restrictive measures

A common element in the national arms export policies of the different Member States vis-à-vis the Arab region has been their (formal) adherence to UN and EU arms embargoes.

The European Council can impose arms embargoes in the framework of the Common Foreign and Security Policy (CFSP). Despite the fact that arms export control policy remains a national competence in the EU, arms embargoes provide an important way in which the EU can impact upon the arms export control policies of Member States for the Arab region. Although a number of European arms embargoes are merely transpositions of UN arms embargoes, the EU also imposes

¹ Under the Common Position, EU Member States are now obliged to publish national reports on their arms export policy.

its own arms embargoes. Arms embargoes generally are part of a much wider range of *restrictive measures* that the EU can impose. For instance, restrictive measures can also take the form of general trade restrictions, financial restrictions or travel bans. The objective of arms embargoes is to prevent undesirable deliveries of military equipment destined for conflict areas or intended for internal repression or foreign aggression. Occasionally, products for law enforcement or *dual-use* products are also added to the list of prohibited exports. Further, financial and technical support - which regularly accompanies arms deliveries - is often prohibited. Arms embargoes generally provide for a number of exceptions. These exceptions may concern certain products (for instance, *non-lethal equipment*) and/or certain end-users (for instance, deliveries to the recognized government or to UN 'blue helmets').³¹ The EU arms embargoes are immediately legally binding for EU Member States. EU embargoes are currently in force for nearly twenty countries.¹ Further, there is also an arms embargo targeting Al-Qaeda and the Taliban.³² Since the outbreak of the Arab Spring, EU arms embargoes have been in force for four Arab countries: Iraq, Lebanon, Libya and Syria. These arms embargoes are linked with the conflicts in the relevant countries. The embargoes against Libya and Syria are a direct result of the events of the Arab Spring and were imposed in 2011. The arms embargoes against Iraq and Lebanon are older, dating respectively from 2003 and 2006.¹¹

2.2.1.1 Arms embargoes on Libya

The UN Security Council decided in March 1992 to establish an arms embargo on Libya following the lack of Libyan cooperation in the investigation of the country's connection to the bombings of an American and a French airliner. After Libya accepted responsibility for the actions of Libyan officials in these bombings and committed itself to cooperating with further investigations, the UN arms embargo was lifted in September 2003.³³ This was followed by the lifting of the EU arms embargo in 2004. At that time, defence experts and industry representatives expected that Libya would modernize and replace a significant part of its arsenal of conventional weapons. The result was that Libya was soon considered by many Western defence companies, including European companies, as a very promising market for selling their products. Several EU Member States actively supported their companies' efforts to sell weapon systems to Gaddafi. Yet these industrial and political efforts did not immediately yield significant results, as exports of major weapons systems from the EU remained rather limited in 2006-2010.³⁴ Confronted with the outbreak of large-scale violence in Libya at the end of February 2011, the UN Security Council adopted Resolution 1970 which demanded an immediate end to the violence. In order to strengthen this demand, a new arms embargo was imposed together with travel prohibitions and the freezing of the regime's financial resources. A couple of days later, the EU published a series of restrictive measures on Libya (*Council Decision 2011/137/CFSP*³⁵ and *Council Regulation No. 204/2011*³⁶). These included a prohibition on the delivery, sale or transfer of arms and all types of related equipment to the country, as well as equipment which could be used for domestic repression. A few weeks later, NATO operation *Unified Protector* commenced, designed to implement UN Security Council Resolution 1973 and aiming to enforce a *no-fly* zone above the country. This operation gave the rebels the upper hand and led to the fall of Gaddafi. The operation lasted until the end of October 2011. In June 2011 the international media reported that France had begun supplying weapons to the Libyan rebels despite the EU arms embargo.³⁷ This implies that at least one Member State deliberately broke the EU arms embargo on Libya. After the Arab league's recognition of National Transitional Council as the legitimate representative of the Libyan state in

¹ Afghanistan, Belarus, China, Democratic Republic of Congo, Eritrea, Guinea, Iran, Iraq, Ivory Coast, Liberia, Libya, Myanmar, North Korea, Somalia, South Sudan, Sudan, Syria, and Zimbabwe

¹¹ The arms embargoes on Iraq (CP 2003/495 and 2004/553) and Lebanon (CP 2006/625) are not targeted at the government or international troops in these countries, but only at non-state actors in general (Iraq) and at militias that must be disarmed on the basis of UN Security Council Resolutions 1559 and 1680, in particular (Lebanon).

August 2011, the UN amended its arms embargo. In response, the EU followed suit in September 2011 and also amended its own arms embargo (Council Decision 2011/625 and Council Regulation 965/2011). On condition that such transfers would be notified to the Sanctions Committee and not refused by this Committee, it was now permitted to transfer arms to the new Libyan authorities, and to make temporary transfers of small arms and light weapons (SALW) and related materiel for use by UN personnel, representatives of the media, and humanitarian and development workers and associated personnel.³⁸ COARM data show that in 2011 Member States granted 26 licences with a total value of €34 million, and in 2012 20 licences with a total value of €22.5 million, for arms exports to Libya.

2.2.1.2 Arms embargoes on Syria

In reaction to the violent repression of peaceful protests by the Syrian regime, the EU announced a series of restrictive measures on Syria in May 2011 (Decision 2011/273/CFSP and Regulation 442/2011), including an embargo on the sale, delivery, transfer or export of arms and all types of related equipment, as well as equipment which could be used for domestic repression. In an attempt to further strengthen this embargo, in the course of 2012 the restrictions were spelled out in further detail (Regulations 36/2012 and 509/2012), and it was established that EU Member States must inspect all transports from their territory destined for Syria (Decision 2012/420/CFSP). In November 2012, the EU decided to extend the restrictive measures until 1 March 2013 and from that point, to provide for three-monthly extensions instead of once a year (Decision 2012/739/CFSP).³⁹ In late February 2013, the embargo was extended by an additional three months (until June 2013), but – under pressure from the United Kingdom and France, among others – the decision was taken to leave more room for deliveries of non-lethal support and technical assistance for the protection of civilians.⁴⁰

For the United Kingdom and France, however, this relaxation of the embargo did not go far enough. The British Prime Minister as well as the French Minister of Foreign Affairs publicly distanced themselves from the embargo and declared their intention to provide arms to the Syrian rebels if no prior consensus on the point could be reached within the EU.⁴¹ Despite opposition from other EU states, France and the UK continued to press for exempting arms deliveries to opposition forces from the EU arms embargo, and a major rift developed within the EU.⁴² In a letter dated 21 March 2013 to the High Representative of the EU, the Ministers of Foreign Affairs of France and the UK jointly called for lifting the EU arms embargo on the Syrian National Coalition. They argued that such a move would “send a strong signal to the Assad regime: that [the EU] policy will continue to develop in response to developments in Syria; second, that [the EU] increases [its] flexibility to respond to the ever worsening situation on the ground, and third that lethal supplies would be allowed, if and when this became a necessary, proportionate and lawful response to a situation of extreme humanitarian suffering and on the basis that there is no practicable alternative.”⁴³ The pressure from France and the UK resulted in the EU’s decision in April 2013 to allow the supply of certain equipment⁴⁴ to the Syrian National Coalition for Opposition and Revolutionary Forces when intended for the protection of civilians.⁴⁵ According to Austria, an overwhelming majority of EU member states were against the further hollowing-out of the arms embargo.⁴⁶

As a result of the sharp division among EU states, no final agreement could be reached by late May and the EU arms embargo was left to expire by the end of June 2013. A couple of days before the

³⁸ S. Weiland, Bürgerkrieg in Syrien: Berlin zaudert bei Waffenlieferungen und Rebellen, Der Spiegel, 15 March 2013; J. Borger, Austria says UK push to arm Syrian rebels would violate international law, The Guardian, 14 May 2013 [<http://www.theguardian.com/world/julian-borger-global-security-blog/2013/may/14/austria-eu-syria-arms-embargo>]

³⁹ Non-lethal equipment which might be used for internal repression and technical assistance and financing related to non-lethal military equipment

deadline for extending the – already significantly amended – arms embargo, a consensus between Member States was still lacking. While the UK and France strongly pushed for the lifting of the embargo, other countries such as the Czech Republic, the Netherlands and Sweden remained hesitant. In particular, the claim that the end-use of these weapons would be controlled, and the assurances that the weapons would not end up in the hands of more radical Islamist groups, were received sceptically. Because of fears that if no consensus could be reached on the arms embargo, all the restrictive measures vis-à-vis Syria would lapse, a compromise was brokered by Germany: the arms embargo was largely lifted, but the other sanctions remained in place. Because the EU's strongest foreign policy players strongly pushed for a change in arms export policy, a deal had to be struck on their terms.⁴⁵

In their declaration on Syria of 27 May 2013 the Council announced the lifting of the arms embargo, and at the same time renewed the other restrictive measures for a period of 12 months. With regard to arms exports, the Council stated that it took note of the commitment of the Member States to sell, supply, transfer or export military equipment and equipment which might be used for internal repression only to the Syrian National Coalition for Opposition and Revolutionary Forces, and this only for the protection of civilians. Importantly, the Member States committed themselves not to start delivering these weapons immediately. In addition, the Member States committed themselves to assess export licences on a case-by-case basis, to take full account of the assessment criteria of Common Position 2008/944, and to require adequate safeguards against misuse of authorizations granted, in particular in terms of relevant information concerning the end-user and final destination of the delivery.⁴⁶ Council Decision 2013/255/CFSP of 31 May 2013 formally confirmed this decision.¹ In its declaration of 27 May the Council announced that it would review this position before 1 August 2013 on the basis of a report to be made by the High Representative (after having consulted the UN Secretary-General) on developments related to the US-Russia initiative and on the engagement of the Syrian parties. There is no public record of whether such a review actually took place and/or what the outcome was.⁴⁷ COARM data show that in 2012 only licences for the export of military vehicles destined for Syria were granted by Germany and the UK. These export licences were in line with Council Decision 2013/255/CFSP since they entailed the export of British all-wheel drive vehicles with ballistics protection and components for these vehicles to United Nations-mandated missions,^{II} and of German cross-country vehicles for United Nations-mandated missions in the country^{III} and for the EU Delegation to Syria in Damascus. The total value of vehicles covered by these 10 export licences was €6.9 million. The other Member States did not report granting any arms export licences for Syria to COARM. In addition, the UK government granted 8 brokering licences for vehicles and components originating from Jordan. It is unclear for whom these vehicles were intended.

2.2.1.3 Review of arms export to Egypt

Following the escalation of political violence in Egypt and the killing of up to 1,000 opponents of the military-backed government in August 2013, the EU Member States decided to restrict arms exports to the country. Confronted with this wave of violence, several Member States (including

^I In this decision the EU prohibits the sale, supply, transfer or export to Syria of a list of equipment that might be used for internal repression (or for the production of such equipment), and equipment and software for monitoring the internet and telephone communications. This prohibition did not apply to equipment that was intended for food, agricultural, medical or other humanitarian purposes, or for the benefit of UN personnel, or for personnel of the EU or its Member States. Other sensitive items were subject to authorization on a case-by-case basis by the exporting Member State, taking full account of the assessment criteria in Common Position 2008/944.

^{II} More specifically the United Nations Supervision Mission in Syria (UNSMIS), UNHCR staff operating in Syria, and the UNICEF humanitarian missions in Syria

^{III} More specifically the WFP Syria Country Office of the United Nations World Food Programme, the United Nations Supervision Mission in Syria (UNSMIS), and the UNHCR Branch Office in Syria.

Germany, Italy, the Netherlands and the UK) decided to restrict their arms export policy towards Egypt by mid-August. Germany stated that Europe needed to send a “*common, strong and clear signal for an end of the violence*” and proposed an EU-level arms embargo on the country. However, not all Member States were equally convinced of the need for such an embargo.⁴⁸

Following an emergency Foreign Affairs Council meeting on 21 August 2013, the EU adopted a number of conclusions relating to the Egyptian authorities. The EU stated that “*the recent operations of the Egyptian security forces have been disproportionate and have resulted in an unacceptable large number of deaths and injuries*” and called on the authorities to exercise the necessary restraint, end the state of emergency, restore due process as a matter of urgency, release all political prisoners, and respect international obligations regarding the treatment of detainees. On the occasion of this meeting the EU imposed a number of restrictive measures. No consensus was reached with regard to an arms embargo on the country, but Member States did agree to “*suspend export licences to Egypt of any equipment which might be used for internal repression and to reassess export licences of equipment covered by Common Position 2008/944/CFSP and review their security assistance with Egypt*”.⁴⁹ By deciding not to take other restrictive measures, for example economic sanctions, or cut aid packages, the Member States hoped to maintain their political leverage as a broker in the crisis.

The lack of consensus on an arms embargo was reflected in the terms of the decision to restrict arms exports to Egypt. For example, these restrictive measures were not imposed through a formal Council Decision followed by a Council Regulation, in contrast to the embargoes on Libya and Syria. This meant that the restrictive measures were not legally binding, but only constituted a political commitment. In addition, no time limits were set on the restrictions and no definition of ‘equipment, which might be used for internal repression’¹ was given.⁵⁰ Member States may thus interpret the restrictive measures from their own viewpoint and decide to resume normal arms exports whenever they perceive this as useful. Given the lack of comprehensive data on EU arms exports in 2013, it is still too early to assess how the various EU Member States handled these restrictive measures.

2.2.2 Application of common criteria

The foundation of EU arms export policy as developed in the Common Position 2008/944 is the list of eight common assessment criteria (see box). The criteria are binding minimum standards; EU Member States are free to impose more stringent standards of their own. Although Member States need to take the eight common criteria into account, the ultimate decision arising from the assessment remains a matter solely for the Member States. Several EU Member States have transposed these European criteria into their own legislation, and a number of Member States apply additional national criteria. It is important to stress that article 10 of the Common Position states that Member States can take the effect of proposed exports on their economic, social, commercial and industrial interests into account, but that this may not affect the application of the eight common assessment criteria.

To assist member states in interpreting and implementing the common criteria, COARM developed a User's Guide.⁵¹ This User's Guide supports the licensing services of the EU Member States in their

¹ According to SIPRI this term can be assumed to include certain types of arms and military equipment, such as small arms and armoured vehicles of the types used by the Egyptian security forces during the deadly violence in August 2013. However, it could also include other items that are not covered by the EU definition of ‘arms and military equipment’ as described in the EU Common Military List

national interpretation of the common assessment criteria and the operative provisions. The first version of the user's guide was published in 2003, but it is regularly updated in terms of clarifying concepts and defining 'best practices'.⁵² These best practices are developed by COARM, based on national best practices and taking into account input from other stakeholders. The User's Guide is publicly available on the website of the European External Action Service (EEAS).⁵³ Because the User's Guide is intended for use primarily for national export control officers, its aim is to achieve greater consistency in the application of the criteria by the various Member States. Thus, the User's Guide works for convergence in the arms export control policies and procedures of the different Member States in a very pragmatic way.⁵⁴

European assessment criteria

Criterion 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

Criterion 2: Respect for human rights in the country of final destination as well as respect by that country of international humanitarian law

Criterion 3: Internal situation in the country of final destination as a function of the existence of tensions or armed conflicts

Criterion 4: Preservation of regional peace, security and stability

Criterion 5: National security of the Member States and of territories whose external relations are the responsibility of a Member States as well as that of friendly and allied countries

Criterion 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

Criterion 7: Existence of a risk that the military technology or equipment will be diverted within the buyer country or re-exported under undesirable conditions

Criterion 8: Compatibility of the exports of 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

Before permitting or refusing arms export licences, EU Member States have to assess the applications for these licences in the light of the eight common EU criteria. If a Member State feels the proposed arms export is in line with these criteria (and in some cases with additional national criteria), it will grant an export licence. In other cases, the Member State will refuse an export licence and share this information with the other Member States. In the following sections we shall analyze arms exports from the EU to the Arab region that have been approved or refused after an assessment of the common criteria. In the annual COARM reports, no information is included on how the different Member States have assessed these criteria in relation to concrete licence applications. In this section we will use the COARM data to detect general trends in the licence

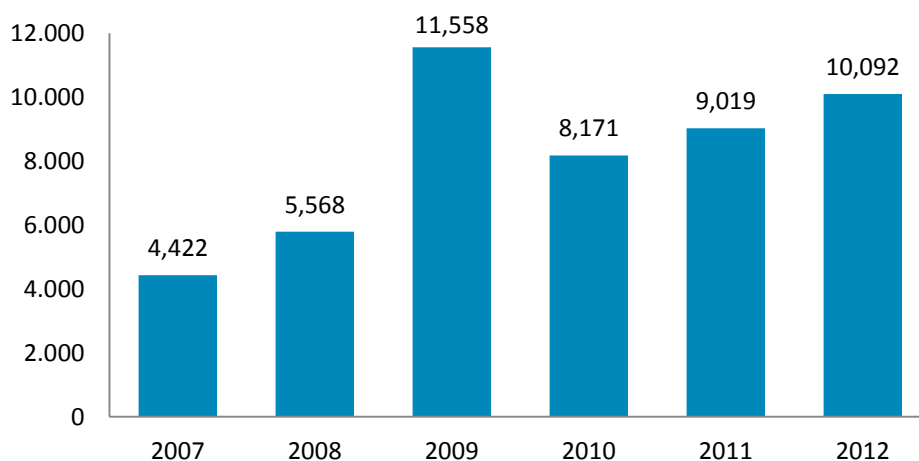
applications approved and denied for arms export to the Arab region. In the case-studies in chapter three below, we shall then analyze the rationale of various Member States for allowing or refusing arms exports.

2.2.2.1 Arms exports approved for the Arab region

The Arab region is the second most important recipient region for arms exports from the EU. Almost all EU Member States grant licences for arms export to the Arab region. In 2012, 25 EU Member States granted in total approximately 4,500 such licences with a total value of more than €10 billion. The five largest EU arms exporters (France, Italy, Germany, the United Kingdom and Spain) account for the bulk of exports to the Arab region: almost 90% of the value of licensed arms exports to the region in 2012. This does not mean, however, that the other EU Member States were not involved in arms exports to the Arab region. In today's globalized defence industry, major conventional weapon systems are produced as a whole in the exporting member state but with components coming from a large number of European countries.

Despite the political unrest in the region, a sharp increase in EU arms exports to the Arab region can be observed in recent years. According to official COARM data, the value of licensed arms exports to the Arab region doubled between 2007 and 2012ⁱ (see figure 1). This is not the result of a general trend of increasing EU arms exports, since the percentage of EU arms exports destined for Arab countries increased from 16% to 25% in this period. Despite strong annual fluctuations, increasing European arms exports to the Arab region can also be detected by analyzing the SIPRI data on transfers of major conventional weaponsⁱⁱ. Between 2007 and 2012 the value of these transfers to the Arab region doubled. In 2011 especially, the value of arms transfers to the Arab region from European countries was particularly high; but in 2012 also, the value was significantly higher than in the period 2007-2010 (see figure 2).

Figure 1: Value of licensed arms exports (in billion €) from the EU to the Arab region, 2007-2012ⁱⁱⁱ



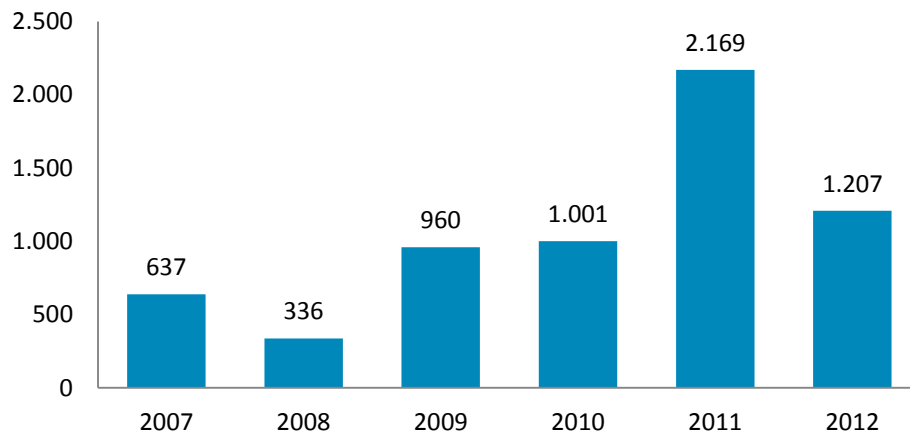
Source: COARM

ⁱ In this report we use the figures for licensed arms exports instead of the figures for actual arms exports. We do this for two reasons. Firstly, data concerning actual arms exports are not available for all EU Member States in the COARM annual reports. Secondly, we are mainly interested in the arms export *policy* of the EU Member States. For this, the data concerning licence applications granted and denied are more relevant as a source than the partial data on actual trade flows

ⁱⁱ The database on international transfers of conventional weapon systems of the Stockholm International Peace Research Institute (SIPRI) is generally acknowledged to be the most comprehensive and reliable open-source database on international arms transfers available.

ⁱⁱⁱ These figures were corrected for the erroneous data from Belgium concerning Jordan and Saudi Arabia. Some discrepancies in this table might occur due to discrepancies between the sum of "individual" figures and aggregated data in the COARM reports.

Figure 2: Transfers of major conventional weapons in trend indicator values (TIVs), per country of origin, 2007-2012



Source: SIPRI

The COARM data on licensed arms exports and the SIPRI data on transfers of conventional weapons indicate a trend of increasing EU arms exports to the Arab region. It is important to point out that these data still reflect an underestimate of the total EU arms exports ending up in the Arab region. Not included in these figures is the export of components initially exported to defence companies in third countries which integrate these components into weapon systems they are producing for a client in the Arab region. For example, Dutch components have been exported to the United States for the production of 12 F-16 fighter jets ordered by Oman, while Belgian components have been exported to Turkey for the modernization of Saudi tanks. Both of these exports are not included in the COARM and SIPRI data.

The increase in licensed arms exports to the Arab region is not surprising given the decrease in European defence budgets and the sharp increase in military spending by countries in the Middle East and North Africa. Between 2003 and 2012 the military expenditure of the full set of Arab nations doubled. Importantly, almost all Arab countries show a strong increase in military expenditure. Only in Egypt, Syria and Yemen does military expenditure seem not to have increased since 2003. The main military Arab power in the region remains Saudi Arabia, followed by the United Arab Emirates. Together they account for approximately three-quarters of total Arab military expenditure. A remarkable increase can be observed in the military expenditure of Algeria: between 2003 the military expenditure of this North-African country almost tripled, making it the country with the third largest defence budget in the Arab region. The other principal military actors are Oman, Kuwait, Iraq, Egypt and Morocco (see table 1).

Table 1: Military expenditure by country in constant US \$, 2003-2012 (in million US \$)

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Algeria	3,152	3,585	3,753	3,847	4,514	5,259	5,712	6,045	8,652	9,104
Libya	831	1,085	1,069	941	885	1,338	...	...	...	2,800
Morocco	2,483	2,413	2,504	2,528	2,603	2,904	3,101	3,319	3,343	3,582
Tunisia	500	510	548	571	525	567	586	602	[623]	[746]
Bahrain	555	559	553	602	637	688	774	774	878	924
Egypt	5,227	4,945	4,936	5,050	5,086	4,737	4,597	4,473	4,287	4,175
Iraq	...	(1,882)	(2,541)	(1,824)	(2,724)	3,401	3,225	3,782	5,905	5,693
Jordan	916	850	845	924	1,262	1,456	1,507	1,400	1,340	1,382
Kuwait	4,854	5,225	5,056	4,999	5,309	4,888	4,782	4,716	5,393	5,945
Lebanon	1,259	1,280	[1,300]	[1,291]	[1,417]	1,298	1,564	[1,665]	1,627	1,622
Oman	3,687	4,145	4,997	5,343	5,413	5,154	4,822	5,094	4,291	6,489
Qatar	[1,263]	1,164	1,229	1,320	1,700	2,193	1,938	1,913	...	...
Saudi Arabia	25,751	28,628	34,495	39,294	45,264	44,425	45,655	47,511	48,531	54,218
Syria	2,322	2,326	2,339	2,104	2,236	2,027	2,301	2,366	2,495	...
U.A.E.	[9,170]	[10,200]	[9,305]	[9,238]	[9,816]	[11,960]	[14,081]	[17,658]	[19,166]	...
Yemen	1,663	1,357	1,419	1,328	1,588	1,526	...	...	1,164	1,243
Total	53,200	58,072	63,743	68,851	77,022	81,861	80,564	81,995	87,906	97,177

Source: SIPRI

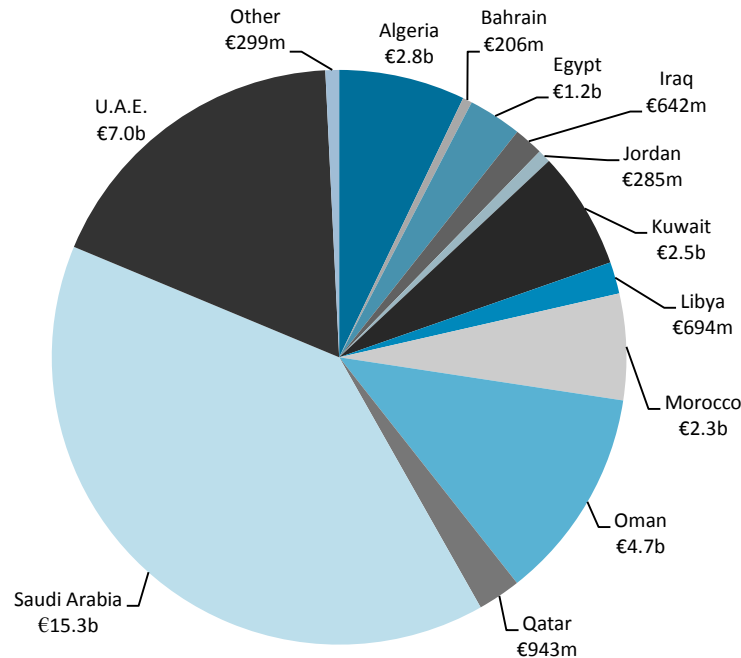
Although the Arab Spring has impacted on the military expenditure of countries in the region, other factors seem to have played a more significant role since a large part of the increase was already realized before 2011. Partly in reaction to the perceived Iranian threat, most Arab countries from the Gulf are currently increasing their defence budgets and importing military equipment on a large scale.⁵⁵ The countries in the Arab region are considered as an important growth market by the European defence industry, since high oil prices are providing the Middle East with the financial resources for buying armaments. There is fierce competition to win contracts, also involving American, European, Russian and Asian defence companies. The defence companies involved are often supported by their own governments in seeking a larger share of the defence market.⁵⁶ The Commission believes that maintaining the defence sector is essential *“if Europe is to remain a world-leading centre for manufacturing and innovation”*. Therefore it considers strengthening the competitiveness of this sector as a key part of the Europe 2020 Strategy for smart, sustainable and inclusive growth. The EU promotes arms export to non-European markets to compensate for reduced demand in home markets, but also stresses that these exports must be authorized in accordance with the political principles laid down in Common Position 2008/944/CFSP, and with the Arms Trade Treaty.⁵⁷

Analysis of COARM data indicates that EU Member States consider the lion's share of arms export licences requested for the Arab region positively after assessing the EU common criteria. In 2009-2012 22,900 arms exports licences were destined for Arab states. The value of these exports varied greatly among recipient countries (see figure 3). With a value of €15.3 billion, 40% of licensed EU arms exports to the Arab region in 2009-2012 were destined for Saudi Arabia which has oil revenues large enough to import large numbers of sophisticated arms systems¹. The other main

¹ This high value is to a large extent the result of the purchase of new aircrafts by the Saudi Arabian Air Force. In recent years, Saudi Arabia has made the modernization of its air force a priority. American and European companies in particular have profited from this. For instance, in 2007 the country ordered 72 Typhoon combat aircraft valued at £4.43 billion from a multinational consortium of European defence companies. The total value of this project will however reach £20 billion when

recipients of EU arms exports to the Arab region in 2009-2012 were the United Arab Emirates (€7.0 billion), Oman (€4.7 billion), Algeria (€2.8 billion), Kuwait (€2.6 billion), Morocco (€2.3 billion), and Egypt (€1.2 billion). A similar pattern can be found when analyzing the SIPRI arms transfers database.

Figure 3: Arab recipient countries of licensed arms exports, 2009-2012



Source: COARM

The list of major recipients of EU armaments is largely a reflection of the list of countries with the highest military expenditure in the region. We can also observe that, with the exception of Egypt, the countries most affected by the Arab Spring (Libya, Syria, Bahrain, Yemen and Tunisia) are not the main recipients of European weapons. This observation might suggest that the events of the Arab Spring affected European arms export policies and resulted in more restrictive arms export policies towards these countries. To see whether this is correct, it is necessary to analyze the export licences that were denied and suspended as a result of the events of the Arab Spring.

2.2.2.2 Arms export licences denied and suspended for the Arab region

In the period immediately following the eruption of protest across the Arab region in late 2010 and the start of 2011, EU Member States responded by refusing, suspending, revoking, recalling or putting on hold arms export licences to the whole Arab region or specific Arab states. In most Member States these measures were of a temporary nature. Soon, arms exports to these countries was either allowed again, or it was decided to deny all or particular types of arms export licences for these countries (sometimes but not always as a result of an arms embargo). In the annual COARM reports and most national government reports, information on licence suspensions and similar decisions is not included. Only information on denied export licences is publicly available. In

arms systems, maintenance and upgrades are included. Winning important military aviation contracts is translated into European export licences. In addition to aircraft, licensed EU arms exports to Saudi Arabia consist of a broad range of military equipment, including large amounts of small arms and light weapons, ammunition, fire control systems, ground vehicles, naval ships, electronics, imaging equipment and technology.

this section we shall try to detect some general trends in denied licence applications for arms exports to the Arab region from the EU, using the data from the COARM reports. In addition to information on the number of denials (an indicator of potentially more restrictive export policies), these reports also contain information on the justification offered by the Member States for denying these licences.

An analysis of the COARM data on licences denied by all Member States based on an assessment of the eight common criteria indicates that the formal denial of arms export licences does not often happen in the EU: between 2007 and 2012, 2,281 license applications were denied by Member States out of a total of more than 320,000 applications. A significant number of these denied licences referred to arms exports for the Arab region. In 2007-2012, 453 applications for arms exports to Arab countries were denied by the Member States (see table 2).ⁱ

Table 2: Denied licence applications for EU arms exports to the Arab region, 2007-2012

	Number of licences issued	Number of denied licence applications	% of applications denied for export to Arab region	% of applications denied for export worldwide
2007	4,635	73	1.6%	0.8%
2008	3,876	44	1.1%	0.7%
2009	7,770	72	1.2%	0.6%
2010	6,863	56	0.8%	0.5%
2011	3,844	118	2.9%	0.8%
2012	4,423	90	2.0%	0.8%
Total	31,411	453	1.4%	0.7%

Source: COARM

A number of interesting observations can be made based on the COARM data on denied license applications. A first observation is that licences for arms exports to the Arab region are denied more frequently than the global average, but this figure remains low (1.4% of licences denied for the Arab region versus 0.7% worldwide). In addition, table 2 indicates a decreasing percentage of arms export licences being denied for the Arab region between 2007 (1.6%) and 2010 (0.8%)ⁱⁱ. This is in line with previous research that revealed a strong decrease in the denied/approval-ratio for export licences destined for the MENA region between 2011 and 2009, especially in North Africa (from 8.1% to 2.0%), but also in the Middle East (from 3.7% to 1.3%).⁵⁸ The recent COARM data show that in 2011 (2.9%) and 2012 (2.0%), the share of license applications denied for the Arab region increased strongly. It is clear that especially in 2011, but also in 2012, relatively more licences destined for the Arab region were denied than in previous years.

ⁱ The percentage of licences denied is twice as high for arms export to the Arab region (1.4%) as the worldwide average (0.7%). Previous research by Vranckx, Slijper & Isbister (2011) showed that the denial/approval ratio for arms export licences destined to the MENA region does not differ greatly from the ratio of licences destined for Latin America, Asia and European countries that are not part of the EU. Only licences for arms export to Sub-Sahara Africa have a higher denial/approval ratio. It is exceptional for Member States to deny licence applications for arms exports to other Member States or North America.

ⁱⁱ The result of this decrease was that in 2010 the proportion of licences denied for exports to the Arab region came pretty close to the average proportion of licences denied worldwide.

The increase in 2011 can largely be attributed to the armed conflict in Libya and the arms embargo on the country (see *infra*). While in 2007-2010 Libya was already the Arab recipient country attracting most refusals, with 4.1% of all license applications denied, this percentage increased to 68% in 2011, the year the arms embargo came into force¹. When analyzing the European assessment criteria that were cited as grounds for denial, we can observe that out of a total of 56 denials, the Member States referred to respect for their international obligations and commitments 19 times, to human rights 36 times, and to armed conflict in the country 35 times. The arms embargo on Syria did not have the same effect since Syria had not been an important market for Europe in recent years, while arms exports to Libya in the period 2007-2010 annually averaged almost €160 million. The percentage of licences denied declines to 1.4% when Libya and Syria are not included. This means that arms exports denied for Libya and Syria together accounted for more than half of all export licences denied for the Arab region in 2011, thus explaining an important part of the strong increase in the percentage of denied licences that year. Yet after this adjustment, the adjusted percentage of denied licences was still substantially higher than in 2010. Some Member States thus appear to have changed their arms export policy towards a number of other Arab countries as well. A lacuna in the COARM report is that it does not reveal which Member States refused the various license applications. In addition, information on the type of equipment, the quantity and value of the equipment, and the final destination and end-use is lacking. We can therefore only detect general EU trends when using this data.

Based on the COARM data about denied licences, a general distinction can be made among four groups of recipient countries that differ from one another in levels of sensitivity. *First* come Libya and Syria, two countries embroiled in serious armed conflicts in 2011 on which EU arms embargoes were imposed: arms exports to these countries are in principle forbidden (see *supra*).

¹ In 2011 26 licences (with a total value of €34 million) were granted while 56 applications were denied. The refused applications covered the export of heavy ammunition, fire control systems, vehicles, aircrafts, electronics, protective equipment and imaging equipment.

Table 3: Denied licence applications for EU arms exports to the Arab region, 2011-2012

	2011			2012		
	Licences issued	Denied licences	% denied applications	Licences issued	Denied licences	% denied applications
Algeria	135	6	4%	155	1	0.6%
Bahrain	50	20	29%	82	27	25%
Egypt	305	7	2%	403	24	6%
Iraq*	112	1	0.9%	66	3	4%
Jordan	150	3	2%	154	3	2%
Kuwait	352	1	0.3%	338	0	0%
Lebanon*	53	0	0%	47	2	4%
Libya*	26	56	68%	20	3	13%
Morocco	178	1	1%	162	0	0%
Oman	646	1	0.2%	807	4	0.5%
Qatar	241	0	0%	286	0	0%
Saudi Arabia	859	1	0.1%	943	12	1.3%
Syria*	1	6	86%	10	0	0%
Tunisia	55	4	7%	43	4	9%
U.A.E.	887	3	0.3%	895	5	0.6%
Yemen	12	8	40%	12	2	14%
Total	3962	118	2.9%	4423	90	2.0%

Source: COARM

* Countries on which an EU arms embargo is/was in force

Second come Bahrain and Yemen. The information on denials shows that these are very sensitive countries for arms exports as a result of internal tensions and the human rights situation. This sensitivity is reflected in the high percentage of arms export licences denied. In 2011 the EU Member States denied respectively 29% and 40% of all export licences for these countries. In 2012 these percentages decreased to 25% and 14%. For both countries, human rights motivations and the internal tensions in the country were invoked in particular as grounds for denial. Interestingly, a small number of denials were also explained by referring to regional peace, security and stability; to the recipient's behaviour towards the international community; and to the compatibility of arms exports with the technical and economic capacity of the recipient country. However, not all EU Member States perceive these destination countries as equally problematic. Despite the high percentage of denials, EU licensed arms exports to Bahrain in 2012 (€78.6 million) reached their highest level since 2003¹. Licensed arms exports to Yemen from the EU, on the other hand, fell in 2011-2012 compared to previous years. Again, we can see differences in EU Member States' handling of export licences. Recent export figures from the two most important EU arms exporters to Yemen (Bulgaria and the Czech Republic) illustrate these differences. In 2007-2010 licensed arms exports from Bulgaria - mainly light and heavy ammunition and to a lesser extent firearms -

¹ Especially because of the licensed export of light and heavy ammunition from Spain.

averaged €29 million annually,ⁱ while in 2011 and 2012 licensed arms exports were limited to one license for fire control systems with a value of 15,000 euro. Licensed arms export from the Czech Republic, on the other hand, decreased in 2011 but increased again in 2012. This difference in export figures between Bulgaria and the Czech Republic might be coincidental, but may also indicate a different export control policy following the Arab Spring.

A *third group* of countries is characterized by increased sensitivity with regard to arms exports. More specifically, this concerns Tunisia, in 2011 Algeria, and in 2012 Egypt, Iraq and Lebanon. Approximately 4-9% of licence applications for military equipment destined for these countries were denied. The different grounds for denial were mentioned in the COARM reports. The most frequently cited motives were human rights considerations and the internal tensions in the country, followed by the risk of diversion or undesirable re-export.

An analysis of the export licences denied indicates that the EU as a whole does not consider the *remaining Arab countries* as problematic. Only a very small proportion of arms export licences for these countries were denied by the Member States. This group of countries also includes several that have repeatedly admitted to providing arms to the warring parties in Syria, such as Saudi Arabia and Qatar.⁵⁹ With regard to Saudi Arabia an interesting evolution can be observed. While in 2007-2011 only one license application was denied out of almost 4,200 applications, EU Member States suddenly denied 12 licences applications in 2012. Yet only one of these 12 denials was explained by the risk of diversion or undesirable re-export. For 10 denials, criterion 2 (respect for human rights) was considered problematic, while the internal security situation and regional stability were referred to respectively five and four times.

As mentioned earlier, the COARM data only take into account the licence applications that were formally denied by member states. We should therefore interpret the results with caution. The potential impact of improvised 'on hold' measures, revoked or recalled licences cannot be traced since these decisions were generally not recorded as formal denials. To analyze the impact of these measures we need to look at different data, for example Eurostat data for the export of "arms and ammunition" as recorded by customs. Although we have to be careful interpreting this dataⁱⁱ, an analysis of this data suggests that the unfurling of the events of the Arab Spring seems to have led to a strong decline in actual arms deliveries from Europe to the region in early 2011 (see figure 4), in particular to Bahrain, Iraq, Kuwait, Libya, Oman and Saudi Arabia. This data (using six months rolling averagesⁱⁱⁱ) also show that this drop in arms exports was of a temporary nature. A couple of months later, overall arms deliveries to the region picked up again (mainly due to renewed transfers to Iraq, Kuwait, Oman, Saudi Arabia and the UAE) and by the end of 2011 even reached

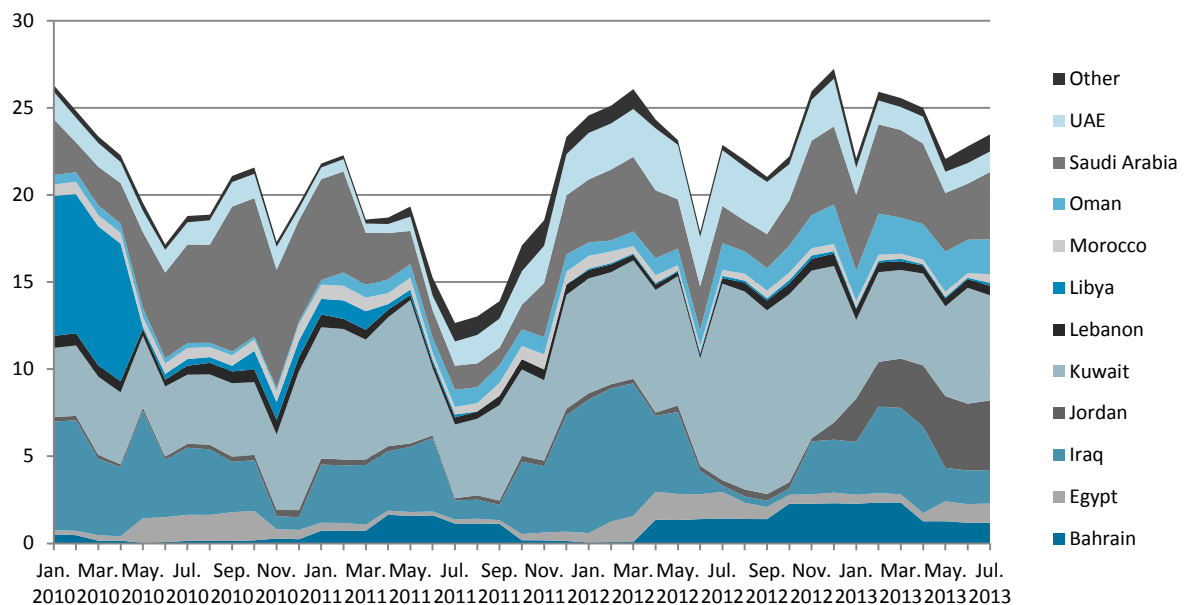
ⁱ Information from Wikileaks revealed that part of this export concerned the sale of small arms (including 30,000 assault rifles), explosives, ammunition and other weaponry to the government of Yemen. Interestingly, this deal was financed by the U.A.E.. Following diplomatic pressure from the US, extra measures for end-use controls of these shipments were implemented. For more information see: <http://www.theguardian.com/world/us-embassy-cables-documents/243817>

ⁱⁱ There are several reasons to interpret these figures with necessary caution. First, these figures only concern certain types of goods that are listed on the Common EU list of military equipment that accompanies Common Position 2008/944/CFSP and therefore requires a licence. The category used here is labelled 'arms and ammunition' and includes firearms, light weapons and artillery, and associated ammunition and components. It does not include Major Conventional Weapons, for example, military vehicles or ships or aircraft. This category would, though, be expected to show the greatest sensitivity to political changes as it includes equipment – such as firearms – which is usually directly involved in internal repression and civil war. Furthermore not all Member States publish information on exports of this category, but instead choose to censor their data. In addition experience shows some differences in the national interpretation of the categories used by Eurostat. Finally, the trends shown in Figure 4 are coincidental, and it is not possible with this source to differentiate between While geographically in the region, the data does not include transfers to Cyprus, Israel and Turkey as they were not affected by the Arab Spring.

ⁱⁱⁱ Figure 4 uses a six month rolling average. So the figure for 'June 2013' is the sum of the previous six months divided by six (i.e. a six month average). This means that the above graphs show the trend, and not the actual level of exports in a given month.

higher levels than in the period just before the Arab Spring. This analysis shows for instance that arms exports to Bahrain, often the subject of such informal measures but also of formal denials, pretty much stopped after the start of the protests in the country in early 2011, but in 2012 resumed at its normal pace. Exports to Libya, though, did not revive. As we shall discuss in detail in our country studies (chapter three), suspensions and similar measures were often quickly withdrawn by the Member States.

Figure 4: Trend-indicator for export of “arms and ammunition”, per recipient countryⁱ, 2006-2013



Source: Nicholas Marsh, Peace Research Institute Oslo, using data from Eurostat.ⁱⁱ

2.2.3 Information-exchange

A third important instrument for achieving more harmonization among national arms export policies within the EU is the encouragement of information exchange between Member States on arms export decisions. The varying policy responses by different Member States following the unfolding of the Arab Spring (see *infra*) do not necessarily imply there was no discussion and information-sharing between Member State on their arms export policies vis-à-vis the Arab region. An analysis of the available information suggests that the events of the Arab Spring and its impact on national arms export policies have been the object of information sharing in recent years.

Information exchange on arms export policies among Member States is organized by COARM and mainly occurs in two ways.ⁱⁱⁱ The first is the organisation of regular COARM working group

ⁱ ‘Other’ countries are Algeria, Qatar, Syria, Tunisia and Yemen.

ⁱⁱ Received by the author via private correspondence with Nicholas Marsh of PRIO.

ⁱⁱⁱ Besides the COARM working party meetings and the denial notification database, Member States can of course also consult each other bilaterally outside the COARM framework. Very little information on these types of consultations is publicly available.

meetings. The Secretariat of COARM organizes these meetings approximately every two months for the representatives of national licensing administrations of the various EU Member States. These meetings are of a confidential nature, and are important because it is here that these country representatives discuss their national export control policies and their implementation of European policy on arms exports.⁶⁰ In every COARM working group meeting during 2011, national arms export policies towards certain Arab states - for instance, the 'on-hold' measures - were discussed, and Member States shared information on their exports and denials to the region.⁶¹ Although issues may be discussed in great detail, a problem with the information-sharing mechanism through COARM meetings is that these meetings are only organised every two months. This does not always allow for a timely exchange of information, especially in the case of fast-changing situations such as those triggered by the events of the Arab Spring. COARM is currently trying to improve the information exchange between member states.

The second way is the use of the denial notification database and the related consultation mechanism. The Common Position stipulates that Member States must share information with one another about export licences that they deny in accordance with the assessment criteria of the Common Position. Denial notifications continuously take place via the EU's electronic 'COREU' system, managed by COARM. Within this database member states exchange detailed information on arms export licences they have denied, including a detailed explanation of why the licence application was denied, to all other EU Member States. The purpose of the denial notification database is basically to encourage more consultation and avoid undercutting of each other's export decisions: if Member State X is considering licensing an 'essentially identical transaction' to one denied in the past three years by Member State Y, then Member State X must first consult with Member State Y. This consultation does not necessarily imply, however, that Member State X must also deny the application it has received: the decision to approve or deny the transfer of any military technology or equipment remains at the national discretion of each Member State. If Member State X does ultimately issue the licence, it only has to notify Member State Y (the state that issued the denial) and give a detailed explanation of its reasoning for granting the licence. It is unclear how often licence applications are denied after consultation.

Not only the denials notified, but also the results of the bilateral consultations, are included in the central electronic EU denials database. This consultation mechanism aims at greater harmony in decisions on export cases - usually difficult ones, given the initial denial - that could possibly lead to political tensions among EU Member States. With this database, the EU is thus trying to encourage transparency among Member States on national arms export policies towards specific countries of final destination and specific end-users. This is considered important not only for achieving a more harmonized arms export policy and common foreign policy, but also for balancing the competitive positions of European defence companies. The Member States must treat the consultations and information about the denied licences confidentially and must not derive any commercial advantage from them (the 'no undercut' principle).

Although some general information on this consultation mechanism is publicized in the annual COARM report,¹ the details of such denial notifications and consultations remain confidential to allow it to function effectively. Since 2008 the annual COARM reports have included information about the use of the consultation mechanism. From these data, it seems that annually more than a

¹ Since 2002, The EU's annual report has since 2002 contained data on the number of consultations that were conducted each year. Since 2006, the EU has also - separately - disclosed the identity of the recipient countries that were the subject of such consultations.

hundred consultations are initiated by EU Member States. Some 10-20% of these consultations have concerned an export licence for the Arab region (see table 4). In 2008-2012, 94 consultations on Arab destination countries were initiated by Member States. Consultations were initiated for export license applications for 12 out of the 16 Arab countries. Only for exports to Iraq, Oman, Qatar and Syria were no consultations initiated this period. Most consultations were initiated for exports to Egypt (17 times), the United Arab Emirates (15 times), Libya (12 times), Algeria (11 times) and Yemen (11 times).

Table 4: Consultations concerning the Arab region, 2008 - 2012

	Total number of consultations	Number of consultations concerning the Arab region	Arab countries
2008	101	16	Algeria (4x), Egypt (5x), Kuwait (1x), Lebanon (1x), Libya (4x), U.A.E. (1x)
2009	105	22	Algeria (2x), Egypt (3x), Jordan (2x), Lebanon (1x), Libya (3x), Tunisia (3x), U.A.E. (1x), Yemen (7x)
2010	109	16	Algeria (2x), Egypt (4x), Kuwait (1x), Libya (3x), Morocco (2x), Tunisia (1x), U.A.E. (2x), Yemen (1x)
2011	107	12	Algeria (1x), Bahrain (1x), Egypt (4x), Libya (2x), U.A.E. (2x), Yemen (2x)
2012	123	28	Algeria (2x), Bahrain (4x), Egypt (1x), Jordan (3x), Kuwait (1x), Lebanon (2x), Morocco (1x), Saudi Arabia (4x), U.A.E. (9x), Yemen (1x)

Source: COARM

It is important to stress that these figures can only cover a small minority of all license applications for arms export to the Arab region, since the procedure can only be initiated for an ‘essentially identical’ licence application that was previously *denied* by another Member State. For comparison, in the same period 380 license application for arms export to Arab countries were denied in the EU. Although it is unclear how many of these denials were ‘essentially identical’, it seems that the consultation procedure is regularly used by Member States when these very specific conditions apply.

When comparing the data for 2011-2012 with the data for 2008-2010, we may observe that the number of consultations on exports to Arab countries reached its lowest level for the whole period in 2011. The eruption of the Arab Spring thus did not immediately result in an increase in formal use of the consultation mechanism among EU Member States. This is not surprising, since denial notifications are the result of new applications in cases previously denied by another Member State, and this process takes time. In addition, the first response of most EU Member States was to suspend, revoke or put on hold export licences for certain countries, not to formally deny them.

In 2012, on the other hand, the number of consultations initiated was at its highest. Yet this high number in 2012 was not the immediate consequence of the recently increased number of licences denied, since no consultations were initiated that year on arms exports to Libya (because of the arms embargo), while the high number of denied licences in 2011 was mainly the result of the high number of denials for arms exports to that North African country (see *infra*). Other factors thus seem to have played a role. In this context it is noteworthy that in 2012, a high number of consultation procedures were initiated for arms exports to the United Arab Emirates (9

consultations): while this country is an important customer for European military equipment, relatively few licences to this country are annually denied by the Member States and the country was not a focal point in the Arab Spring. In 2012 there were also a relatively high number of consultations for Saudi Arabia and Bahrain (with 4 consultations each), two other countries that were more at the forefront of the Arab Spring and had not been, or hardly ever, the objects of consultations before the Arab Spring began.

Although an increase in the use of denial consultations for arms export to the Arab region can be observed in 2012, there is little evidence pointing to a specific connection with the Arab Spring. Information on the use of the consultations is interesting, but also has its limitations.⁶² A first important limitation is that not every Member State makes consistent use of this system. Much depends on how an 'essentially identical transaction' is interpreted by the different Member States. A second important limitation of the information in the COARM annual report is that no information is provided on the outcome of consultations. We only know the total number of consultations initiated by Member States for each destination country. The outcome of consultation is treated confidentially among the Member States. Information on the type of military equipment, the end-user, and the Member States that were the initiators and subjects of consultations are also lacking. This stands in the way of a thorough analysis of the impact of the Arab Spring, and more generally, of the extent to which the consultation procedure contributes to the harmonization of national export control policies.

2.3 Review of Common Position 2008/944/CFSP

In 2012 the Council carried out an assessment of the provisions and implementation of CFSP Common Position 2008/944, in line with article 15 of this position stating that it should be reviewed three years after its adoption. By chance, this review process coincided with the time when the events of the Arab Spring were unfolding. Faced with the observation that European weapons were frequently used during these events, NGOs working on arms trade issues urged the EU Member States to make use of the review of the Common Position to improve the existing system, and to adapt their current arms export policies so as to ensure that European military and law enforcement equipment would not be used to oppress demands for democratic reform.⁶³

In the conclusion of its assessment, the Council emphasized its desire to coordinate national export policies to prevent – so far as possible – the use of European weapons for repression or international aggression, referring explicitly to the events of the Arab Spring. The Council recognized that further progress was needed in the coordination of Member States' arms export policies. To achieve this goal, the Council judged that it was not necessary to change the text of the Common Position. It concluded that the provisions of the Common Position continued to properly serve the objectives set in 2008, and provided a solid basis for the increasing coordination of national arms export policies. To maximize convergence between Member States' export policies, the Council stated that it would focus on developing further guidance on the application and interpretation of the eight assessment criteria; on the refinement of the information exchange mechanism on specific destinations; and on the improvement of the denial notification and consultation mechanism.⁶⁴

The European Parliament adopted a resolution in July 2013 on the review of the Common Position in which it applauded the fact that the EU had a legally binding framework for arms export control, emphasized the right of Member States to proceed in accordance with their national policies, and acknowledged that - mainly thanks to the Common Position User's Guide - significant progress had been made on reaching agreement between the Member States on the application and interpretation of the Common Position criteria. The Parliament also noted, however, that the eight criteria were “*applied and interpreted in varying degrees of rigour*” in the different EU Member States, and called for a more uniform interpretation and implementation of the Common Position with all its obligations. The Parliament regretted that the EU did not have a common arms export policy, and linked this export policy with the EU's Common Foreign and Security Policy (CFSP). According to the European Parliament, it is up to the Member States and the High Representative for Foreign Affairs and Security Policy to ensure coherence between Common Position 2008/944/CFSP and the EU's CFSP.⁶⁵

3 Analysis of responses in France, Belgium, Germany and the Netherlands

3.1 France

3.1.1 Characteristics of French arms exports

France has for decades been one of the largest exporters of weapons and military technology worldwide. In the period 2008-2012 France was estimated by SIPRI to be the fourth largest exporter of conventional weapon systems, accounting for an estimated 6 per cent of global arms trade, trailing at some distance behind the USA (30%) and Russia (26%) and roughly at the same level as Germany (7%).⁶⁶ In the annual COARM reports France is consistently ranked first in the EU in terms of the value of licensed arms exports.⁶⁷ According to official annual reports from the French government, actual deliveries of military equipment were between €3.2 and €3.8 billion per year between 2008 and 2012.⁶⁸ French military equipment is marketed and exported throughout the world. According to the French government, between 2008 and 2012 21% of orders went to the Middle East, 27% to Asia, 26% to the Americas and only 16% to Europe.⁶⁹

French arms exports have consisted primarily of newly produced complete equipments and components, and to a much more limited extent, of surplus materiel.⁷⁰ The French arms industry is diversified and competitive on the international market, thanks in particular to its high technology and high quality products. Several French-based companies appears in SIPRI's list of the Top 100 arms-producing and military service companies in the world in 2012: *Thales* (11th); *Safran* (15th); *DCNS* (23th); *CEA* (44th); *Dassault Aviation Groupe* (58nd); and *Nexter* (79th).⁷¹ However, in the last decades a large proportion of the French arms industry has been integrated into the trans-European arms industry. As a result, a significant part of the production of components and final products by the *Airbus Group*¹ - the 7th largest arms producer worldwide, with production sites and subsidiaries such as *Eurocopter* and *MBDA* in many European countries and elsewhere, and by far the largest European arms producing company - takes place in France. There are many additional small and medium-sized French companies that produce complete military items or components for integration by other companies into complete military systems. Estimates of the size and economic impact of national arms production are at best a rough indication. According to the French Government, the defence and security industry has an annual turnover of more than €15 billion and employs 150,000 people. Exports account for 25 to 40% of total production.⁷² The spectrum of military products manufactured in France includes all categories of complete conventional weapon systems as well as support equipment such as surveillance and communication equipment and components, and production means for manufacturing complete equipments elsewhere. In the period 2008-2012 exports of new conventional weapon systems from France included inter alia deliveries or orders for combat and light helicopters, patrol crafts,

¹ In January 2014 *European Aeronautic Defence and Space Company (EADS)* was reorganized in the *Airbus Group*

submarines, torpedoes, various types of missiles and air defence systems, sonars, engines, trainer and combat aircraft, radars, and armoured vehicles.⁷³

Despite the large scale of the French defence industry, French arms export policy is formally based on the principle of prohibition, so that each export authorization constitutes an exemption from the law. Since World War II the arms export control process has been divided into several phases: authority to negotiate, export authorization, and eventually customs passage. However, the European 2009 directive on intra-community transfers (2009/43/EC) led to a reform of the French export control system in 2011, with the effect of merging these several licensing steps into one. This reform is to be fully implemented in January 2014.⁷⁴ The decision-making process includes primarily the Ministry of Defence, the Ministry of Foreign Affairs and the Ministry of Economy, and is led by the Prime Minister's office.⁷⁵ France has not transposed the European Common Position on export controls into its own legislation: however, the official government position is that the EU Common Position is taken into account in the decision-making process.⁷⁶ Additional reforms, yet to be set in motion but promised by the current government, involve the further regulation of brokering operations and steps related to the violation of arms embargoes.⁷⁷

Following the Gulf War several French parliamentarians called for more transparency and parliamentary oversight of such arms exports.⁷⁸ This demand was strengthened by the debates related to the 1998 EU Code of Conduct. As a result of the demands for greater transparency, the French government has published annual reports on its arms exports since March 2000. NGOs involved in advocacy work linked to the arms trade have deplored several deficiencies in the French government reports on arms exports, and in 2012 proposed a number of measuresⁱ that would significantly enhance transparency.⁷⁹ Despite the publication of these annual reports, there seems to be very little political debate within France on its arms export policy. Since the 1960s and the presidency of Charles de Gaulle, arms trade has been seen both as part of foreign policy – a means to contribute to bilateral relationships and to gain influence - and of defence policy, as a means to sustain the arms industry and thus enable indigenous arms procurement.⁸⁰ The French media have regularly uncovered arms trade-related scandals that took place, for the most part, during the 1980s and 1990s. Such disclosures have however dealt with corruption and financial links between political parties and specific arms deals, rather than questioning the overall French arms export policy, which is widely considered as a legitimate instrument of foreign and defence policy by both sides of the political spectrum.ⁱⁱ In this political environment, favourable as it is to arms exports, successive government officials regularly complain about the decline in exports and pledge themselves to try to restore the upward trend.⁸¹

In 2012 the French government stated that its arms export policy is based on two principles: (1) arms exports are conducted with respect for France's international obligations and adhere to

ⁱ They stated that the following information must be included if they were to consider the report as satisfactory: details of the type of materiel covered by the export authorizations, details of the type of materiel delivered, the identity of end-users and the stated end-use, denials and reasons for denial, re-export authorizations, brokers involved in the transactions, other types of operations covered by the scope of the ATT, and the resources dedicated to export controls in each relevant ministry

ⁱⁱ A recent example is the so-called "Karachi affair", where the media have reported alleged kickbacks from a contract for supplying submarines to Pakistan in the second half of the 1990s. Although such possible financing of political campaigning through commissions and corruption as a whole has been widely criticized, there has been no discussion of whether France should reconsider exports to Pakistan altogether. This is best exemplified in the Parliamentary Committee report on the Karachi affair, which recalls that the sale of submarines to Pakistan at the time of the deal was in line with a diplomatic objective shared by successive governments from different party majorities. This report does call for increased transparency in arms export contracts, in particular for deals covered by the export credit agency (COFACE), but does not question the legitimacy *per se* of arms exports in general, or to Pakistan in particular. For more information, see: Assemblée Nationale (2010), *Rapport d'information, Commission de la défense nationale et des forces armées, en conclusion des travaux de la mission d'information sur les circonstances entourant l'attentat du 8 mai 2002 à Karachi, présenté par Bernard Cazeneuve (rapporteur) et Yves Fromion (président)*, http://www.assemblee-nationale.fr/13/dossiers/circonstances_attentat_karachi.asp

transparency and rigorous control, and (2) that arms export is justified for economic, operational and strategic reasons.⁸² The government claims that proposed deliveries of equipment that could be used for internal repression of the civilian population are refused. Arms exports are also forbidden in the event of a “*conflit ouvert*” (open conflict). However, the French government also states that in certain situations of this kind, it might approve arms deliveries to actors who are aiming for the re-establishment of sovereign authority. In the same report, the government stresses the importance of strengthening the French defence industry. Because of budgetary constraints and the growing complexity of weapon systems, orders for the French armed forces do not suffice to maintain the country’s large-scale defence industry. Arms exports are deemed very important not only for the dynamics of the defence industry, but for the whole French economy. In addition, arms exports are seen as an important aspect of French security and defence policy and an important instrument for strategic partnerships and defence cooperation: “*En s’engageant dans des relations d’armement, notamment avec la signature de grands contrats, ces pays renforcent durablement leurs relations tant au niveau militaire qu’aux niveaux politique, économique et industriel; ils deviennent ainsi de véritables partenaires*”.⁸³

3.1.2 French arms exports to the Arab region

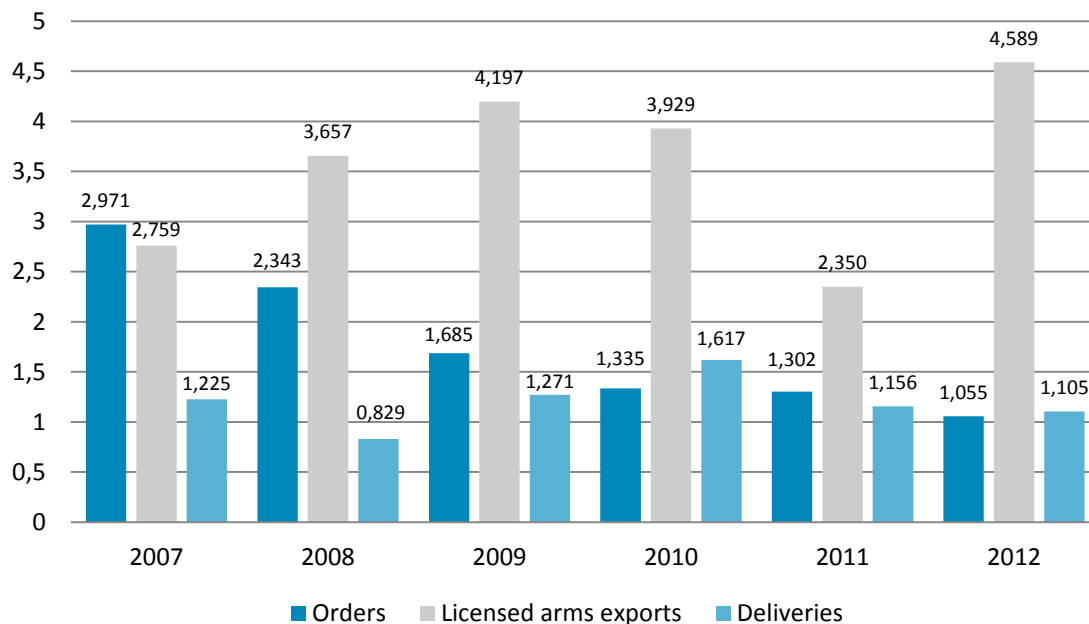
In June 1967, French President Charles de Gaulle announced an arms embargo against Israel and its rivals (Egypt, Syria, Jordan) in view of the Six Days War.⁸⁴ This was a watershed in the relationship between France and Israel, but it also marked a new beginning for the relationship between France and the Arab region.⁸⁵ The role of the Mirage III combat aircraft in Israel’s victory in the Six Days War was reportedly used as a marketing tool in sales of the aircraft to Libya, Iraq, and the United Arab Emirates.⁸⁶ Thus France has had long-standing relationships with Arab countries, including substantial arms sales since the late 1960s and early 1970s. The oil crisis of the early 1970s brought additional wealth to most countries in the region, and French arms exports also benefited from this.⁸⁷ The *Société française d’exportation de systèmes avancés* (SOFRESA), for instance, was created in 1974 as a specific marketing company for the Gulf countries and Egypt. SOFRESA was more specifically involved in big contracts with Saudi Arabia.⁸⁸ Up to 35% of SOFRESA was owned by the state.¹ It was transformed into ODAS in 2008, a company in which the French government still has a 34% stake.⁸⁹ The only country where France has had to forego major arms contracts was Iraq, following the Gulf War of 1991.⁹⁰ Aside from this, France has continuously targeted the Gulf countries in the attempt to sell its weapon systems, and French companies have won important contracts in recent decades.⁹¹

The Arab region is acknowledged as an important market for the French arms industry by the French Ministry of Defence.⁹² With this aim in mind, defence cooperation agreements were signed in 2008 with Algeria (ratified in 2012) and Abu Dhabi (ratified in 2011).⁹³ In both cases, the agreements were perceived as a means to develop “the armaments relationship”, i.e. to favour arms transfers to these countries. The Middle East is considered very important for the future of the independent French combat aircraft industry by the French government and industry. The 2014–2019 French defence budget plan depends heavily on sales of Rafale combat aircraft abroad to keep Dassault’s production line going at a sustainable rate. This budget envisages the acquisition of 26 Rafale by France over the next six years, whereas Dassault needs to produce 66 in the same time-frame to keep up a viable production line. Thus the pressure is on to sell at least 40 Rafale abroad.⁹⁴ France has aggressively marketed the Rafale in Libya, Morocco, Kuwait, UAE, Saudi Arabia, Qatar, Algeria, and Oman in recent years, but has not found a buyer in the Arab region.⁹⁵

¹ The remaining shares were divided between the defence companies and another marketing agency.

In French national government reports, information is given not only on licensed arms exports but also on the orders and deliveries of military equipment worldwide. This information shows a strong decline in the orders for French military equipment by Arab states: between 2007 and 2012 the total amount of orders decreased significantly from €2.971 million to €1.055 million. Given the increasing military expenditure of the countries in the region, this is a worrisome trend for the French defence industry and the government. French companies seem to be losing an important part of their market share in a very lucrative region.

Figure 5: Value of orders, licensed arms exports and deliveries (in € million) to the Arab region from France, 2007- 2012



Source: National reports by the French government, 2008 – 2013

The annual value of licensed arms exports has not followed the same downward trend as the actual orders for French military equipment. In 2011, however, a strong decline in the value of licensed arms exports to the Arab region can be noted compared to previous years. This might seem to be the result of a change of policy following the events of the Arab Spring. Yet a more detailed look at the data shows that this decrease mainly reflects the decreasing value of licensed arms sales to Saudi Arabia, Oman, the UAE and Morocco (see table 5) - four countries that have not been the object of more restrictive arms export policies by the French government following the Arab Spring. In 2012 the value of French licensed arms exports to the Arab region reached its highest level in recent years. The low figures for 2011 therefore at the moment appear to be *un accident de parcours* and not the result of changes in French arms export policy for the Arab region.¹

¹ Actual deliveries of French military equipment to the Arab region fluctuated between €829 million and €1.6 billion between 2007 and 2012. In 2011 (€1.2b) and 2012 (€1.1b) a fall in the total amount can be observed. Rather than a change of policy due to the Arab Spring, this downward trend might be better explained by the final deliveries of Leclerc tanks to the UAE, which previously accounted for a large part of French deliveries.

Table 5: Value of licensed arms export (in million €) to the Arab region from France, by country of destination, 2007-2012

	2007	2008	2009	2010	2011	2012	Total
Algeria	49.5	154.3	120.9	93.2	53.5	23.0	494.4
Bahrain	1.4	3.4	27.9	18.3	17.3	5.1	73.5
Egypt	126.4	88.5	123.0	122.3	107.8	148.0	716.0
Libya	17.7	112.3	30.5	192.5	28.6	.450	382.1
Syria	-	-	-	-	-	-	-
Tunisia	3.3	32.4	38.5	15.8	4.4	1.2	95.7
Yemen	0.388	3.6	4.0	4.3	0.194	6.5	18.9
Qatar	138.7	106.0	96.8	118.8	133.7	494.3	1,088.3
Saudi Arabia	795.8	1,091.6	1,064.2	1,471.0	936.8	1,574.3	6,933.7
Iraq	0.200	-	0.274	16.8	14.7	15.5	47.5
Jordan	7.0	9.0	19.0	13.2	4.1	2.9	55.1
Lebanon	19.8	0.591	0.687	2.2	4.7	7.6	35.6
Kuwait	55.9	23.9	118.1	81.7	75.9	70.4	425.9
Oman	61.7	887.8	839.4	618.7	158.5	1,054.7	3,620.8
Morocco	59.2	305.0	502.9	354.7	280.2	183.4	1,685.5
UAE	1,422.4	838.2	1,210.1	805.4	529.9	1,001.2	5,807.2
Total Arab region	2,759.4	3,656.6	4,196.5	3,928.9	2,350.3	4,588.5	21,480.1

Sources: National reports by the French government, 2008 – 2013

Taking into account the limitations of the available data, an analysis of the data in the French national government reports shows that during the period 2007-2012 most countries in the region have received or ordered French weapons. The only Arab state that has not been identified as a recipient of weapons from France was Syria (apart from a delivery valued at under 50 000€ in 2007). Direct arms exports from France to Yemen, Iraq, Jordan and Lebanon are also quite limited in value. The annual reports from the French government indicate that in the period 2007-2012, Saudi Arabia and the UAE were the most important markets in the Arab region for French military equipment, followed by Oman, Qatar and Morocco.

In its annual reports, the French government also provides some information on denied licence applications. Since 2005 the government has refused an average of 73 arms export licences per year. In 2011, the year when the events of the Arab Spring began and the most recent year for which such figures are available, 59 licence applications for arms exports worldwide were refused, especially in the first semester. The most frequently quoted reason for denying these licences was criterion 1 of the Common Position 2008/944/CFSP (respect for international obligations). Out of these denials, 14 were for exports to North Africa and 8 for exports to the Middle East. The government has not made public the destination countries for these denied licences, which makes it hard to assess the impact of the Arab Spring on French arms export policy. What can be observed is that the number of denied export licences for the Middle East in 2011 (8 denials) was lower than

in 2009 (21 denials) and 2010 (12 denials). The number of denied export licences for exports to North Africa did increase in 2011 (14 denials) compared to 2009 and 2010 (with 5 denials each). This could partially be the result of armed conflict in Libya and the arms embargo imposed on that country.⁹⁶ Besides denying licence applications, the French government also reacted to the Arab Spring by suspending applications. The Secretary-General for national defence and security, who heads the Commission in charge of granting export licences, stated in 2012 that some exports had been suspended due to the Arab Spring, but did not specify which exports and destinations were concerned in these suspensions.⁹⁷

3.1.3 Reaction to the Arab Spring

In October 2011, a coalition of French NGOs¹ complained that France had not reviewed its arms export policy towards Northern Africa and the Middle East following the first events of the Arab Spring.⁹⁸ However, as with arms export policy in general, arms transfers to the affected countries were not much debated in France. Although parliamentarians from both left- and right-wing parties have tabled questions to the government relating to transparency in arms export reports and the Arab Spring, government answers to these questions have remained vague, referring to international agreements such as the EU Common Position, the UN Register and the ICT directive, and also to the national report on arms exports.⁹⁹ Overall, aside from the Green¹⁰⁰ and Communist¹⁰¹ parties, which are traditionally the most critical of arms exports but hold respectively 3 and 2.5 per cent of seats in the National Assembly, few in the political world expressed any strong views on this issue.

The Arab Spring did not lead to significant debate in the French parliament about the risks of arms exports to states under authoritarian rule, other than the Libyan and Syrian exceptions, nor did it lead to an increase in transparency in French arms export policies. Based on publicly available information, little concrete is known about how the French government has made its risk assessments on individual licence applications for arms exports to Arab states. However the outcome of the process has been clear. The available data from the national government reports show no sign of an overall break in the continuity of French arms exports for the Arab region following the 2011 events, neither politically, nor in terms of actual weapon deliveries. The only major identifiable break that may be seen is the case of Libya.

The actual impact of the Arab Spring on French arms export policies can roughly be divided into three categories. Within the scope of this report, it is impossible to describe French arms export policy towards each Arab country. Instead we will illustrate the analysis with concrete examples of French arms export policy vis-à-vis Algeria, Yemen, Egypt, Libya and Syria.

The first category of policies towards the Arab Spring could be labelled the 'business as usual' approach. France did not alter its export policy towards its arms industry's most important clients, nor towards those states where no major uprisings occurred. For the French government and the arms industry, the Arab Gulf countries in particular - with their high levels of military spending - were and remain key markets. Economic interests play an important role here, as seen in the fact that France did not alter its arms export policy towards a number of Arab states that did experience political upheavals during the Arab Spring, but are also considered important potential clients of the French defence industry. A clear example of this is Algeria. According to the SIPRI international arms transfers database, there were few French deliveries of conventional weapons to Algeria in

¹ CCFD-Terre Solidaire, Oxfam France and Amnesty International France

the years prior to the Arab Spring, and the French failed to win significant armament contracts in Algeria. For instance, the French government and industry tried hard to sell FREMM frigates¹⁰² and Rafale fighter aircraft to Algerian authorities,¹⁰³ but in both cases it appears that Algeria cold-shouldered the French and turned to other suppliers, reportedly to Italy for the frigates, and to Sweden for combat aircraft.¹⁰⁴ Aside from the two countries' historically tense relations since the anti-colonial war of the 1950s–60s, Algeria blames France for not helping against the Islamist guerrilla in the early 1990s, when France refused to sell military equipment. Still today, Algeria appears reluctant to turn to the French for military equipment.¹⁰⁵

Despite this reluctance, France and Algeria reached a defence cooperation agreement in 2008 that contains an article designed to facilitate administrative procedures in the field of arms exports.¹⁰⁶ During the ratification process in 2012, the National Assembly's Defence Committee noted that Algeria had so far imported little French military equipment, but that Algeria would in the near future need to renew its equipment. Algeria was thus perceived as a promising market for the French defence industry.¹⁰⁷ The National Assembly's Foreign Affairs Committee underlined the opportunity offered by this agreement to increase arms sales to Algeria.¹⁰⁸ The Defence Committee report also noted that geo-political changes due to the Arab Spring should help to reinforce shared strategic interests between France and Algeria.¹⁰⁹ This argument was used again in the overall Senate debate on this law.¹¹⁰ One (conservative) member of the Foreign Affairs Committee, however, expressed reservations linked to the Arab Spring, fearing that increased defence cooperation with Algeria would involve France in repressing demonstrators. To which, the author of the Committee report on the ratification bill (a socialist deputy) replied that the military personnel involved in following up the cooperation agreement could not "*fight, nor take part to internal security activities*".¹¹¹ In the Senate debate over the cooperation agreement, the Arab Spring was mentioned, but not as an argument against ratifying the agreement with Algeria.¹¹²

The second category involves those cases where France suspended arms sales temporarily in reaction to the violent suppression of opposition demonstrations and other internal violence, but soon returned to business as usual - even though the risk of potential outbursts of violence was still clearly present. This can be illustrated by the case of Yemen. In the years prior to the Arab Spring, the only significant order France received from Yemen was for military electronics valued at €6.9 million in 2010. Yemen has not been an important market for French arms exports in recent years. Even though actual arms deliveries have been few, however, France did provide military training to Yemen and transferred know-how and intelligence. This was primarily connected to fighting piracy and maritime security and to what is usually described as the fight against terrorism.¹¹³ France and Yemen signed several defence cooperation agreements over the years. In 2005, for example, a defence technical cooperation and training agreement was signed that could reportedly provide a legal framework for potential future arms transfers.¹¹⁴ This agreement also entailed the supply of gunboats to the Yemeni coastguard¹ and radars to be used in the Bab el-Mandeb strait in the Red Sea.¹¹⁵ In the spring of 2008, three French military vessels called at Yemen in order to reinforce the links with the Yemeni coastguard and Navy. The aim was, again, to reinforce military cooperation in the field of combating terrorism,¹¹⁶ in particular against threats that could affect maritime traffic in the Gulf of Aden.¹¹⁷

¹ It appears that the patrol boats for the Yemeni coast guards were 6 Baklan-class fast patrol boats built by *Constructions Mécaniques de Normandie*. Such patrol boats are a priority for the protection of "coastal and offshore strategic facilities from terrorist attacks." The 2005 agreement also included transfer of knowhow for "conducting mountain warfare". For more information, see Lewis J.A.C. (2005), Yemen, France sign security pact to monitor Bab el Mandeb strait, *Jane's Defence Weekly*, 9 March; Kahwaji R. (2008), Officials: Regional Navies Prefer Small Patrol Boats, *Defence News*, 24 March.

During the 2011 uprisings in Yemen, the Ministry of Foreign Affairs spokesman announced that export authorizations were suspended.¹¹⁸ This, however, did not significantly change French policy vis-à-vis Yemen. After the uprisings, approvals of arms export licences rose particularly in 2012, when France provided export authorizations for military electronics (€2.3 million) and for naval equipment (€4.2million). This last authorization for naval equipment indicates the continued focus on maritime security in the military cooperation between France and Yemen. According to local media sources, France has been trying to play a significant role in post-revolution Yemen, in particular with regard to security issues, as France is allegedly attempting to “*secure lucrative contracts with the MoD*”.¹¹⁹ However, no details have been reported as to the type of materiel that might be involved. Other examples of countries in the second category are Bahrain and Tunisia which, like Yemen, are both minor recipients of French military equipment.

The most obvious case falling into this second category of the Arab Spring’s impact was Egypt. France had been a significant arms supplier to Egypt in the 1970s and 1980s, but its exports of complete conventional weapon systems to Egypt were rather low in the period 1990-2010.¹²⁰ According to French reports, the total value of equipment for which export licences for Egypt were granted during the period 2007-2010 was €460 million, and the actual export of military goods was worth €142 million. Following the political unrest in the country, France briefly suspended the issuing of licences for exports of military equipment to Egypt in January 2011, and stated that all shipments of law enforcement and explosive materials had been halted.¹²¹ Though it is not clear when they were lifted, these suspensions were short-lived. Already in October 2011, some months after the removal of President Mubarak, the Egyptian Ministry of Interior and Defence Ministry were able to order 18 Sherpa wheeled armoured vehicles and 2 Medium Security and Public Order (MIDS) vehicles from the French company *Renault Trucks Defense* (RTD).¹²² In October 2012, RTD confirmed the Egyptian order for these armoured vehicles and military trucks, with an estimated value of €400 million.¹²³ These vehicles are particularly suited for handling political unrest. According to the French manufacturer these vehicles “*are intended to conduct surveillance and patrol operations in danger zones*” and “*a siren and loudspeaker allow the crew to address a crowd without exposing themselves outside the vehicle*”.¹²⁴ Sherpa vehicles were used by Egyptian forces involved in the violence in Cairo in summer 2013, and in the fighting with armed groups in the Sinai earlier in 2013.¹²⁵ When the violence between the new Egyptian government and the Muslim Brotherhood escalated in August 2013, the French president condemned the violence (also involving the use of the newly supplied French vehicles) as unacceptable.¹²⁶ Soon after, the EU Foreign Affairs Council declared that the actions of the Egyptian security forces had been disproportionate, and announced that EU member states had agreed to suspend licences for the export of any equipment that might be used for internal repression and to reassess export licences for military equipment to Egypt (see *supra*). It is unclear how France has implemented the EU agreement and to what extent it has suspended the delivery of - for example - the military vehicles ordered by Egypt from France in 2012.

The biggest change in French arms export policy occurred in relation to Libya and Syria, constituting the third category. In these cases, France decided to give active support to armed rebellions against regimes that it had for years recognized as legitimate governments, and which in Libya’s case had been perceived as a desirable client for French arms.

During the 1970s France was one of the main arms suppliers to the Gaddafi regime in Libya, delivering weapons such as combat aircraft and armoured vehicles. The relationship changed into animosity by the mid-1980s, when France was aiding Chad to fight off a Libyan invasion. In 1986 the EU imposed an arms embargo on Libya in the context of Libya’s involvement in terrorist activities. This was followed in 1992 by a UN arms embargo on Libya, in response to the Gaddafi

regime's involvement in the bombing of a French airliner in 1989 and other terrorist activities. After Libya dismantled its weapons of mass destruction programmes and agreed on compensation for the dependants of victims of several terrorist attacks, and in view also of the need for cooperation with Libya on African migration to Europe, the UN and the EU lifted their arms embargoes respectively in 2003 and 2004.¹²⁷ After more than a decade of being cut off from arms supplies, it was widely expected that Libya would spend billions of dollars to modernize its armed forces. Notwithstanding Gaddafi's 41-year track record as an authoritarian and unpredictable ruler with a well-documented lack of respect for human rights, several EU member states considered the time ripe to market their military products to Libya.¹²⁸ Despite its past conflicts with the Gaddafi regime, France was at the forefront of these sales efforts from 2004 to February 2011, offering a full range of arms to Libya including Rafale combat aircraft, Tiger combat helicopters and light armoured vehicles.¹²⁹ These sales efforts drew extensive support from the French government, including direct involvement by the then French President.¹³⁰ Although French hopes for arms sales were high, Gaddafi held back on arms procurement. By early 2011 the largest deals for arms exports to Libya from France involved contracts for an advanced communication system for the Libyan armed forces, 1000 MILAN portable guided missiles, and the overhaul and modernization of 12 Libyan Mirage F-1 combat aircraft originally supplied by France in the 1970s.¹³¹ France also supplied the Libyan intelligence services with equipment that was used to collect information on political opponents and their activities.¹³²

Shortly after the start of the Libyan uprising in February 2011, France was one of the first countries to completely reverse its position from actively marketing arms to Libya to denouncing the Gaddafi regime and calling for military action. This decision came immediately after the return from Libya of the last French engineers who had been working on military contracts with Libya.¹³³ On 26 February 2011, within two weeks of the start of the uprising, the Security Council unanimously denounced the gross and systematic violation of human rights by the Libyan regime and imposed sanctions, including an arms embargo. The EU implemented the UN arms embargo by introducing its own embargo on 28 February.¹³⁴ In early March 2011 France became the first country to recognise the National Libyan Council as Libya's government, and on the 20th of March France together with the USA and the UK began air attacks on the armed forces of the Gaddafi regime.¹³⁵ The latter had in the meantime started to use some of the French weapons that had been delivered shortly before the violence erupted.¹

A new chapter in French arms export policy to Arab states started soon after. In June 2011 France openly admitted to having 'provided self-defensive weapons to the civilian populations' in Libya, arguing that this was in line with the combined text of the two UNSC resolutions on Libya that had been passed in February and March 2011. The UN panel of experts on Libya later agreed that the French arms supplies were in accordance with the UNSC resolutions. However, since the EU did not amend its own embargo following the adoption of the second UN resolution on Libya, France had *prima facie* breached the EU embargo. This apparent breach did not lead to open discussion in the EU, although France was then the only EU country confirmed as supplying arms to Libyan opposition forces.¹³⁶ After the removal of the Gaddafi regime, the new Libyan government soon started negotiations with France about procuring French military equipment. In February 2012 the French Minister of Defence visited Libya to discuss how France could assist in rebuilding the Libyan armed forces. For example the possibility of France restoring existing Libyan Mirage F-1 combat aircraft into operational condition was studied.¹³⁷ In late 2012 it was reported that Libya was

¹ For example two Mirage F-1 combat aircraft were sent on a mission to attack the opposition, but the pilots refused and defected with the aircraft to Malta. For more information, see Hooper, J. & Black, I. (2011), Libya defectors: Pilots told to bomb protesters flee to Malta, *The Guardian*, 21 February, <http://www.theguardian.com/world/2011/feb/21/libya-pilots-flee-to-malta>

considering buying French air defence systems.¹³⁸ By 2013 Libya had started to rebuild its armed forces and security forces with the help of a range of states, including France.¹³⁹

In contrast to Libya, there are no reports of French exports of conventional weapon systems to Syria in the years before the Arab Spring. The last known exports of conventional weapon systems from France to Syria dated back to 1981, when Syria received the last of 55 Gazelle helicopters armed with HOT guided missiles.¹⁴⁰ These helicopters were still operational in 2011 and probably used by government forces in the Syrian conflict.¹⁴¹ France has had an uneasy relationship with the Syrian regime since the mid-1980s, when France intervened in Lebanon and found itself on the opposite side from Syria.¹⁴² However, it is not clear whether the absence of French arms sales to Syria in the years before 2011 is explained by the lack of Syrian interest in French arms, or by French reluctance to supply arms. Soon after the violence broke out in Syria, France decided to “support the Syrian people in its struggle for a free, democratic, united and stable country and called for sanctions against the Syrian regime” and gave its full support to the EU arms embargo on Syria that was imposed on 9 May 2011.¹⁴³ Together with the USA and other European states, France proposed in August 2011 a UN Security Council resolution that would impose sanctions, including an arms embargo on Syria. These efforts were blocked by Russia and China.¹⁴⁴ During 2012, similarly to the Libyan case, France started to consider providing direct military support to selected Syrian opposition forces, as some Arab states had already started to do. To make such support possible, France together with the UK pressed from 2012 onwards for the EU arms embargo on Syria to be modified to enable direct support to armed opposition groups. After officially recognizing the newly established Syrian National Council as the sole representative of the Syrian people on 13 November 2012, France called for a review of the arms embargo to enable the delivery of ‘defensive arms’ to opposition forces. Strong French and British pressure eventually led to the lifting of the EU arms embargo (see *supra*).¹⁴⁵ However, as of mid-February 2014 there was no indication that France had actually delivered arms to Syrian opposition forces.¹ French involvement in the conflict has been limited to providing non-lethal equipment such as bullet-proof vests, night-vision goggles and communication equipment; helping to structure the Free Syrian Army's leadership; and providing training to rebels in Jordan, as well as sharing intelligence.¹⁴⁶ The question remains how France formally has legitimized or would legitimize the supply of weapons to rebel forces, given the EU Common Position 2008/944 and the EU statement on transfers to non-state actors.

¹ In June 2013 it was reported that France - as part its assessment of whether and how to provide weapons to the opposition forces - had been investigating ways of adapting weapons so that they could be tracked or shut down remotely to prevent the use of any supplied weapons by others than the intended recipients. A couple of months later, in September 2013, French President François Hollande suggested for the first time that France could arm Syrian rebels in a “controlled framework,” given that they were now caught between the Syrian government on one side and radical Islamists on the other. For more information, see Keaten, J. (2013), France studies how to track arms for Syrian rebels, *AP*, 6 June, <http://news.yahoo.com/france-studies-track-arms-syrian-rebels-060632519.html>; Irish, J. (2013), France suggests it is ready to give weapons to Syria rebels, *Reuters*, 19 September, <http://www.reuters.com/article/2013/09/20/us-syria-crisis-france-idUSBRE98I18620130920>

3.2 Belgium

3.2.1 Characteristics of Belgian arms exports

In Belgium, the competence for arms export control was transferred from the federal level to the regional level in the summer of 2003.¹ This means for more than 10 years now, the Flemish, Walloon and Brussels Capital Region have been responsible for determining, implementing and monitoring the handling of arms export licences. Interestingly, until 2012 the three regions used the same legal framework to develop their own arms export policies: the federal law of 1991¹⁴⁷ and the Royal Decree of 1993¹⁴⁸ concerning the arms trade. These texts, among other things, stipulated a number of criteria to be taken into consideration by the licensing authority when deciding whether or not to issue an export licence. Despite this use of a federal legal framework, from 2003 companies wanting to export military equipment have had to ask for regional export licences¹⁴⁹. After the regionalization of competence, a reflection period of one year was foreseen to give the regions enough time to prepare the development of their own legislation. In the end it took almost 10 years before the regions adopted and implemented their own legal frameworks. Pressured by the need for national implementation of EU Directive 2009/43/EC on intra-EU transfers of defence products, the three regions finally developed their own legal frameworks in 2012. While the Flemish government introduced a completely new legal framework, the Walloon government emphasized continuity and decided to anchor the existing procedures into legislation. As we shall see, political discussions on the Walloon legislation were overshadowed by debate over the controversial sale of firearms and ammunition to Libya in 2009. The Brussels Capital Region lagged behind in the development of its legislation and eventually based the latter to a very large extent on the Flemish legislation.

The regional legislations have been strongly influenced by the European legal framework. Following EU Directive 2009/43/EC, they accordingly make a major distinction between the relaxed handling of arms transfers within the EU, and more restrictive conditions for arms export outside the EU. The three regions also incorporated the common EU assessment criteria of Common Position 2008/944/CFSP into their legislation for arms exports to countries other than EU Member States. In the Flemish and Brussels Capital Region, six additional criteria were included such as the use of child soldiers in the armed forces of the recipient country, the recipient country's attitude towards the death penalty, and the external interests of the region and of Belgium. A comparison of the language used in the criteria indicates that the Walloon region more often stresses the causal link between a certain arms export and the conditions described in the criteria, for example human right violations, while in the Flemish and Brussels Capital Region the principle of precaution is more often stressed (meaning that the possibility that certain exports could lead to, for example, internal repression is a sufficient cause to refuse export licence applications).¹⁴⁹

¹ Control over the import and transit of military equipment, and the international trade in dual-use items, was also regionalized at the same time.

¹⁴⁹ Companies situated in the Walloon region need to apply for export licences with the *Direction de la Gestion des Licences d'Armes* of the Walloon government. The political decision on whether or not to grant these licences is an exclusive competence of the Minister-President of the Walloon region.¹⁴⁹ Companies in the Flemish region have to apply for arms export licences from the *Dienst Controle Strategische Goederen*, the export monitoring unit of the Flemish Department of Foreign Affairs (*Internationale Vlaanderen*). As in the Walloon region, the Minister-President is responsible for the political decision whether or not to grant export licences. In the Brussels Capital Region, licence applications are handled by the licensing office of the Department of Foreign Affairs and decisions are taken by the Minister of Foreign Affairs.

Belgium is not one of Europe's major arms producing and exporting countries. With an annual value of about €1 billion, Belgium accounts for 2-3% of the total EU value of licensed arms exports. In 2009 the *Belgian Security & Defence Industry Association* (BSDI), the lobby group of the Belgian defence-related industry, stated that its companies had a total defence turnover of about €800 million and that the entire security and defence industry employed approximately 10,000 people directly and indirectly in Belgium.¹⁵⁰ Most Belgian defence companies are small and medium-sized enterprises. A number of Belgian multinationals are also active on the defence market, but these activities are limited to a small part of their annual turnover. According to GRIP, 50 companies are responsible for more than 90% of the Belgian defence and security sector and directly employ about 4,750 persons. Through their defence activities these companies produced an added value of €417 million in 2008, corresponding to 0.12% of Belgium's GDP.

Approximately two-thirds of this added value is produced by companies located in the Walloon region,¹⁵¹ which is no surprise. Historically, the defence-related industry in Belgium was located in the southern part of the country. Since the 16th century arms production in Belgium has been focused on the manufacture of firearms and ammunition by companies located around the city of Liège. In the late 19th century several arms manufacturers joined hands and started the *Fabrique Nationale d'Armes de Guerre Herstal* (FN Herstal) to produce 150,000 rifles for the Belgian army under licence from German firearms producer *Mauser*. This was the start of industrialized arms production in Belgium. Thanks to the successful worldwide sales of its firearms and ammunition, FN Herstal soon became the most important Belgian defence company and its activities proved an important catalyst for the development of the defence industry in Belgium, especially in the Walloon region. Despite the strong expansion of the Flemish defence industry in the 1990s, most of the contemporary Belgian defence-related industry is still located in the Walloon region; but over time the difference in scale with the Flemish region has diminished significantly. This is reflected in the export figures: the annual Walloon share in licensed Belgian arms exports fluctuates between 60-75 %, while the Flemish share varies between 20-30%. The share of the Brussels Capital Region is very small.¹⁵²

The Walloon and Flemish defence industries differ strongly in the military goods they produce and the recipients and countries they are exported to. The Walloon defence industry is still to a significant extent oriented towards 'traditional' defence products such as firearms, ammunition and explosives. These are mostly exported to military end-users across the world. FN Herstal, for example, has sold firearms to armed forces in more than a hundred countries.¹⁵³ Interestingly, since 1997 FN Herstal has been fully owned by the Walloon Region. Other important companies in the traditional defence sector are, for example, *Mecar* (large calibre ammunition) and *Cockerill Maintenance & Ingénierie* (weapon systems for armoured vehicles). The Walloon region also has a number of defence companies working in military aviation, such as *Sonaca* and *Sabca*, and on modernizing military vehicles (*Sabiex*). These companies located in the Walloon region have to apply for export licences from the Walloon government. In 2012 the total value of licensed arms exports from the Walloon region was €755 million, which represents a growth – mainly due to increased firearms exports – of more than 80% compared to 2004.

Flemish defence companies on the other hand mainly produce components that are integrated into larger platforms at a later stage in the production process, such as radar and communication equipment, visualization screens, vehicle components and imaging equipment. The defence industry in Flanders is rather limited in scale, with 12 companies accounting for approximately 90% of all licensed exports of military technology and equipment. The most important Flemish defence companies are *Barco* (screens and training equipment), *Cassidian Belgium* (electronics) and *OIP Sensor Systems* (imaging equipment and fire control systems). Most of the other Flemish defence

companies are not geared primarily to the defence market, but to the civil market. When they do export military components, their customers are mainly larger system integrators in other European countries and North America. Analysis of the annual government reports indicates that for 60-75% of exported Flemish military equipment, it is not known what happens with these products after being sold to foreign companies. In these cases the final end-user is not reported to the Flemish government and therefore not included in the licensing procedure. In these cases the government is transferring the decision on and accountability for possible re-export to the government of the recipient country.¹⁵⁴ In 2012 licensed arms exports from the Flemish region were valued at €285 million. Arms production in and exports from the Brussels Capital Region are very limited: in 2012 the value of licensed arms exports from Brussels was only €25.3 million.

Notwithstanding the regional competence for arms export control since 2003, the federal government is still competent for issuing certain arms export licences in Belgium. All import and export licences for the Belgian armed forces and federal police are handled by the federal government. In practice almost all federal export licences are for the sale of surplus military equipment by the Belgian armed forces. The federal government still uses the 1991 legal framework to decide on licence applications. Federal arms export licences are granted by the Minister of Economic Affairs. In 2012 the federal government granted export licences for the export of military goods valued €33 million. For licences for arms export to EU Member States, NATO partners and four other countries^I, the Minister of Economic Affairs decides autonomously. For arms exports to other countries, the Minister of Foreign Affairs is also asked to judge the desirability of these licences. Since the regionalization of arms export control, this advice has always been positive: not a single export decision has been refused by the Federal Government's licensing agency. In fact this is not surprising given that all important sales of surplus army equipment are first discussed by majority political parties in the government before licence applications are formally made.

3.2.2 Belgian arms exports to the Arab region

Arms exports to Arab states are historically a hot political topic in Belgium. Even before the unfolding of the events of the Arab Spring, arms export licences for Arab states had led to much controversy and political debate. In fact, arms sales to Saudi Arabia were the proximate cause for a series of events that eventually led to the regionalization of competence for controlling the arms trade in 2003. In 1991 the Federal government approved a licence for the export by *FN Herstal* of arms with a total value of 2.3 billion Belgian Francs (equivalent of €57 million) to Saudi Arabia. After this deal was leaked to the press, the presidents of two Flemish majority parties^{II} stated they were not happy with this licence. This caused much consternation in the French-speaking part of the country since the sale of these weapons to Saudi Arabia was considered critical for the survival of the Walloon defence industry. A compromise was found: in return for the approval of the export licence, a new, somewhat more restrictive legal framework for arms exports was developed. Yet arms sales soon found their way back to the table of the federal government^{III} and in 1992 the

^I Australia, Japan, New Zealand and Switzerland.

^{II} The social-democratic party (Socialistische Partij) and the Flemish nationalist party (Volkspartij)

^{III} A few months later a new licence application for the export of grenades by Walloon company *Mecar* to Saudi Arabia was blocked by the same two Flemish parties. A solution was not immediately found and tensions between the Flemish- and French-speaking political parties rose significantly. Eventually the Volkspartij decided to leave the government coalition. In order to pre-empt problems with future arms sales, the remaining majority parties decided to regionalize the competence for arms export control and established regional ministerial committees that became responsible for granting or denying arms export licences. However, the establishment of these regional ministerial committees - which were *de facto* responsible for executing federal competences - was considered unconstitutional. During the government coalition discussions in 1992, the

newly formed government decided to make a federal minister from each language group responsible for decisions on arms export licences. This agreement was upheld until the formal regionalization in 2003, when the three regions became competent for the international trade in military equipment.¹⁵⁵

The Arab region is still an important customer for Belgian arms exports. In 2007-2012 Arab countries of destination accounted for 26% of the value of licensed arms exports from Belgium. The total value of licensed arms exports to these countries was €1.6 billion (see table 6).

Table 6: Value of licensed arms exports (in million €) to the Arab region from Belgium, by exporting region, 2007- 2012

	Walloon region	Flemish region	Brussels Capital region	Federal	Total
2007	179.728	2.355	0.829	73.250	256.162
2008	137.647	0.451	0.577	7.860	146.536
2009	419.575	6.032	0.540	2.468	428.615
2010	69.781	20.968	3.265	32.194	126.209
2011	298.651	7.937	0	0	306.589
2012	381.063	1.507	0.837	0.155	383.561
Total	1,486.445	39.251	6.048	115.927	1,647.671

Source: National reports by the Belgian Federal and regional governments, 2007-2012¹⁵⁶

Between 2007-2012 licensed arms exports from the Walloon region to Arab states were valued at €1.5 billion. Wallonia thus accounted for 90% of all Belgian arms exports to the Arab region. The most important Arab recipient country for Walloon arms exports was and is Saudi Arabia. Since 2007 arms export licences for more than €1 billion have been granted for this country, representing almost three-quarters of all Walloon arms export to the region. A rather broad spectrum of products have been exported to Saudi Arabia in recent years, but the most important arms exports consisted of firearms, ammunition and 90mm weapon systems for armoured vehicles (LCTS 90MP turrets). Other important recipient countries are Bahrain, Kuwait, Morocco and the United Arab Emirates. Walloon companies have exported weapons to almost all countries in the region, consisting mainly of firearms, weapons systems for military vehicles, light and heavy ammunition, and vehicles. Only for Syria, Yemen and Iraq were no export licences granted, while licensed arms exports to Algeria, Tunisia and Lebanon were also rather limited. Such limited exports do not seem to be the result of a restrictive arms export policy vis-à-vis these countries, but solely a reflection of the limited interest by these countries in Walloon weapons.

The figures in table 7 indicate that the events of the Arab Spring did not have a negative impact on the overall volume of Walloon arms exports to the region. In 2011-2012 the average annual value

coalition parties decided to dismantle the regional committees and instead make a federal minister from each language group responsible for decisions on arms export licences.

of licensed arms export to the region was €340 million compared to about €200 million in 2007-2010. The share of Arab recipient countries in the total of licensed arms exports also increased: from 29% in 2007 to 50% in 2012. This strong increase was to a large extent the result of increased arms exports to Saudi Arabia, which has become the most important recipient country worldwide (35%) for Walloon arms exports. Arms exports to countries such as the United Arab Emirates and Oman have also increased in recent years.

Table 7: Value of licensed arms exports (in million €) to the Arab region from the Walloon region (Belgium), by country of destination, 2007- 2012

	2007	2008	2009	2010	2011	2012	Total
Algeria	0.042	2.106	-	-	-	0.230	2.378
Bahrain	0.318	32.291	5.325	5.136	4.279	10.018	57.368
Egypt	10.702	3.647	-	1.333	2.279	-	179.607
Libya	-	-	22.321	-	-	-	22.321
Tunisia	0.183	-	0.057	0.006	-	0.077	0.323
Yemen	-	-	-	-	-	-	-
Qatar	4.136	0.197	5.046	0.119	0.232	0.671	10.400
Saudi Arabia	103.820	51.664	337.683	49.825	253.403	266.875	1,063.369
Iraq	-	-	.-	-	-	-	-
Syria	-	-	.-	-	-	-	-
Jordan	8.101	1.894	3.755	0.044	0.199	0.046	14.038
Lebanon	-	0.066	0.121	0.123	0.015	-	0.325
Kuwait	10.336	22.291	16.121	6.872	30.510	0.362	86.492
Oman	2.036	1.714	1.458	1.114	4.577	5.913	16.811
Morocco	33.716	19.550	27.288	2.985	1.892	0.640	86.071
UAE	6.340	2.226	0.400	2.224	1.267	96.231	108.688
Total Arab region	179.728	137.647	419.575	69.781	298.651	381.063	1,486.445

Source: Walloon government reports, 2007-2012¹⁵⁷

Direct arms exports from the Flemish region to recipients in the Arab region are rather limited. The total value of licensed arms exports to the region was €39 million in 2007-2012. Flemish government reports indicate that most of these were destined for the United Arab Emirates. Table 8 shows a scattered pattern of arms exports to the Arab region. Half of all Arab States have not received Flemish arms exports, and most countries that did receive Flemish military equipment did so only sporadically. The Arab region is not an important direct customer for Flemish defence companies. About 85% of Flemish arms exports are destined for European and North American countries, in most cases with other companies as recipients of Flemish components.

Table 8: Value of licensed arms exports (in million €) to the Arab region from the Flemish region (Belgium), by country of destination, 2007- 2012

	2007	2008	2009	2010	2011	2012	Total
Algeria	-	-	-	-	0.490	0.455	0.945
Bahrain	-	-	0.938	1.572	-	-	2.509
Egypt	-	-	-	0.276	-	-	0.276
Libya	-	-	-	-	-	-	-
Tunisia	-	-	-	-	-	-	-
Yemen	-	-	-	-	-	-	-
Qatar	-	-	-	-	-	-	-
Saudi Arabia	-	0.452	0.197	-	-	-	0.659
Iraq	2.295	-	0.179	-	-	-	2.474
Syria	-	-	-	-	-	-	-
Jordan	0.041	-	0.581	-	-	-	0.622
Lebanon	-	-	-	-	-	-	-
Kuwait	-	-	-	-	-	0.993	0.993
Oman	0.001	-	4.138	0.314	-	0.288	4.499
Morocco	-	-	-	-	-	-	-
UAE	-	-	-	18.807	7.447	0.029	26.283
Total Arab region	2.355	0.452	6.032	20.968	7.937	1.507	39.251

Source: Flemish government reports, 2007-2012¹⁵⁸

The Flemish government's reports, in principle, also provide information on the end-users of arms exports where these are known. This is very interesting given Flemish defence companies' focus on the production and export of components. In 2008-2012 29 arms export licences were granted, covering military equipment valued at €22 million, for arms export to non-Arab states but with reported end-users in Arab states. The countries of end-use in these licences were the United Arab Emirates, Algeria, Saudi Arabia, Oman, Egypt and Iraq. A significant share of the Flemish arms thus eventually ends up in the Arab states. Given the high percentage of exports with unknown end-use (60-75%), the fact that most Flemish arms exports consist of components destined for European defence companies, and the fact that the Arab region has become the most important external customer market for European defence companies in general, we can expect that in reality a substantial share of all Flemish military equipment exported will find its end-use in Arab states. This is illustrated by the delivery of armoured Tactica vehicles¹ which were partially assembled by a Flemish company and then exported to the defence industry in the United Kingdom, but ended up

¹ The family of Tactica vehicles are multi-purpose 4x4 vehicles, suitable for various divisions of army and security troops, constructed by BAE Systems. The armoured Tactica platoon command vehicle is the standard model on which different versions are developed for specific purposes (e.g. patrol vehicles, APCs, command and control vehicles, and ambulances). These vehicles were developed with the aim of providing a high degree of protection and mobility for the occupants without looking overtly aggressive, making them suitable for various military and policing functions.

in the hands of the Saudi National Guard^I. In total two Flemish export licences were granted for the export of 116 armoured vehicles and 84 assembly kits: in December 2007 a licence was approved for exports of partially assembled vehicles worth €56 million, and in June 2009 a second export licence was granted for the remaining balance of the contract (€46.8 million). Yet despite their high values and the end-use of these military goods in Saudi Arabia, these export licences are not included in the figures in table 8. This is because the end-user of these vehicles was not reported in the official report of the Flemish government. In addition, it turned out that the licence application originally included Saudi Arabia as the country of end-use and that this application was therefore initially denied by the competent minister. This revelation in January 2008 caused much political controversy in the Flemish Parliament.¹⁵⁹

Arms exports destined for Arab states from the Brussels Capital Region have been marginal and mainly limited to rather small amounts of firearms and ammunition, communication equipment and aircraft components. The total value of licensed arms export from Brussels to the Arab region was €6 million in 2007-2012.^{II} Given the small size of these exports, we will not analyse Brussels' arms export policy vis-à-vis the Arab world in this report.

Federal arms export licences have accounted for approximately 7% of the total value of Belgian arms exports since 2003 and are characterized by strong annual fluctuations, reflecting the sale of conventional weapon systems such as frigates, aircrafts and vehicles. About 80% of exports of Belgian surplus military equipment is destined for NATO countries, especially Italy and Bulgaria. Arab states are, however, also important customers for surplus equipment, mainly vehicles and aircraft, from the Belgian army. Since 2003 about 17% of federal arms exports have been destined for the Arab region, with the army of Jordan an especially important customer. The SIPRI arms transfers database indicates that since 1999 Jordan has ordered 25 F-16 fighter jets^{III}, 243 Spartan armoured personnel carriers, 61 armoured infantry vehicles (AIFV), 50 Scorpion light tanks, 34 M-113 vehicles and 45 AGM-65 Maverick missiles from Belgium. The last deliveries of these weapon systems occurred in 2011, namely the delivery of the 9 additional F-16s that were ordered in 2010. Other Arab states that have acquired Belgian army equipment since 2000 are Bahrain (50 AIFVs ordered in 2007 and delivered in 2008), Lebanon (22 AIFVs and 12 M-113 vehicles ordered in 2007 and delivered in 2009-2010), and Morocco (110 AIFVs, 13 M-113 vehicles and 43 M-109A1 155mm howitzers ordered and delivered in 2006-2009).

Since the regionalization of arms export competence in 2003, arms export licences in general have hardly sparked political debate in the Federal parliament. The export of surplus military equipment to Arab States is not a weighty political issue in Belgium. Before the Arab Spring, only the sale of surplus F-16 aircrafts to Jordan in 2007 was the object of modest debate in the federal parliament.

^I With a view to improving its domestic security situation, the National Guard of Saudi Arabia awarded BAE Systems a contract for delivery of 200 Tactica armoured vehicles. The Saudi Arabian National Guard, also known as 'the White Army', consists of active-duty soldiers but is not part of the regular army. It is established to protect the royal family from internal rebellion and against the regular Saudi Army if necessary. BAE Systems to a large extent relied on the Belgian company Mol Cy, located in the Flemish region, for the production and assembly of these vehicles. In 2007, the Flemish company received an order from BAE Systems worth approximately €56 million for delivery of 116 armoured vehicles and 84 assembly kits. After partial assembly of the vehicles by Mol Cy (adding components such as axles, engines, brakes etc. to the chassis) and the nearly complete assembly of a number of vehicles. They were sent to the BAE British production site in the UK, where armoured materials were added. From there the vehicles were exported to Saudi Arabia. The first Tactica vehicles finally arrived with the Saudi Arabian National Guard in 2009.

^{II} The main recipients in 2007-2011 were Morocco (semi light military equipment, firearms, ammunition and aircraft components for €4.5 million), Algeria (electronic and communications equipment, heavy ammunition and fire control systems for €0.852 million) and Libya (communications equipment for €0.652 million). The other Arab recipient countries were Qatar (€8,500), Saudi Arabia (€7,944), Egypt (€2,175) and Tunisia (€1,680). These latter exports consisted of firearms.

^{III} In 2009 it was reported that the Belgian army received €70 million for the sale of the 16 F-16 aircraft in 2007. The value of the F-16s that were additionally ordered is unknown.

Asked about this export in the light of the tense security situation in the Middle East, the Ministry of Defence justified the sale of these aircraft by referring to Jordan's moderate political position in the region, its participation in NATO's Mediterranean Dialogue and its political connections to the EU. In addition, it was argued that the acquisition of these aircraft was not enlarging Jordan's military capacity but rather adjusting it. The US was asked to approve this sale (re-export of its fighter jets), which it did.¹⁶⁰ The events of the Arab Spring have not made a difference to this lack of federal political debate. While the use of Flemish-made Tactica vehicles by Saudi Arabia in neighbouring Bahrain sparked intense debate in the Flemish Parliament (see below) and some press reports stated that former Belgian army vehicles were also being used to suppress the demonstrations in Bahrain,¹⁶¹ the federal parliament remained silent.

3.2.3 Reactions to the Arab Spring

The Flemish government's reaction to the Arab Spring

In response to the events of the Arab Spring, the Flemish Parliament adopted a resolution on 16 February 2011 in which the Flemish Government was asked to expressly condemn all use of violence and intimidation, and to urge the governments in the region to respect human rights. On arms exports specifically, the Parliament requested the Flemish Government to *"exercise the greatest caution when granting licences for the export, import and transit of arms, ammunition and equipment specially intended for military use or law enforcement purposes from and to the region [the Middle East and the Maghreb], and in accordance with the applicable arms legislation"*.¹⁶² In response to parliamentary questions, the Flemish government on several occasions clarified its arms export control policy vis-à-vis the Arab region. The government stated that the relevant departments were thoroughly monitoring the situation in the region and continuously adapting their policy in the light of political developments in the region. A starting-point for the Flemish arms export control policy vis-à-vis the Arab region was that it respected the European arms embargoes on Libya and Syria. In addition, the government announced that it had put several export licences "on hold" in response to the events of the Arab Spring. In February 2011 the government stated it would not grant new export licences for a list of "problem countries" in the Arab world: *"not a single arms export file for countries currently confronted with a popular uprising will be implemented"*.¹⁶³ Furthermore, companies were asked to return current licences for arms exports intended for these problem countries to the Strategic Goods Control Unit.¹⁶⁴ Video footage of the Saudi National Guard's Tactica vehicles, which were made in Flanders (see *supra*), crossing the border between Saudi Arabia and Bahrain to support the Bahraini government in suppressing the activities of the political opposition on 14 March 2011 triggered further political debate on the Flemish government's arms export policy.

The government has stated that the "on hold" measure is a dynamic process and that the list of "on hold countries" is regularly reviewedⁱ. Initially, no further licences were allowed for a rather wide range of sensitive countries: Morocco, Algeria, Tunisia, Libya, Egypt and the countries of the Arabian Peninsula.¹⁶⁵ Soon afterwards this list was reduced to Bahrain, Egypt, Libya, Oman and Tunisia. At the end of March 2011, Yemen and Syria were added to the list of "on hold" countries. Oman and Tunisia were removed from the list in September 2011 and May 2012 respectivelyⁱⁱ.

ⁱ The review of the countries on the list draws its information from analyses by the licensing department (Strategic Goods Control Unit). These analyses are based on information obtained from the regional and thematic departments of the Federal Public Service for Foreign Affairs, and open sources (such as reports from the European Union, international organizations and non-governmental organizations).

ⁱⁱ Libya and Syria were also crossed off the "on hold" list due to their status as embargo countries.

Currently, arms exports to Bahrain, Egypt, Yemen and Syria fall under the Flemish “on hold” measures. It is important to stress is that these “on hold” measures are applied not only to export licences directly destined for Arab states, but also to export licences destined for third countries where the known end-use of the military equipment lies in an Arab state, and to transit licences. In March 2013 the government declared in parliament that since these “on hold” measures were implemented, only a small number of licence applications for these sensitive destination countries had been submitted.¹⁶⁶

For arms exports to the other Arab states, export licences are treated as normal licence applications and the government stated they will only be granted if in line with EU Common Criteria and the additional assessment criteria included in the Flemish Arms Decree of 2012. In February 2012 the Flemish Government stated it was carefully following the political situation in Algeria, Jordan, Kuwait, Lebanon, Morocco, Oman, Qatar, Saudi Arabia and the United Arab Emirates.¹⁶⁷ In 2011-2012, licensed direct arms exports to the Arab region were valued at €9.4 million. They exclusively concerned unmanned aircraft and related equipment, fire control systems, and imaging equipment for the industry in the United Arab Emirates¹ (€7.5 million); telecommunication equipment for the industry and components and accessories for vessels, vehicles and/or aircraft for the armed forces in Algeria (€0.9 million); military training equipment for the armed forces of Kuwait (€0.993); firearm weapon sights for the government of Oman (€0.029 million); and firearms for a private person in Morocco (€1,400). Given the focus of the Flemish defence industry on the export of components, the value of arms exports to Arab states is however in practice higher than the transactions described above. In 2011-2012 10 licences were, for example, granted for arms exports to European countries, but with a known and reported end user in the Arab region - for example in Saudi Arabia or the United Arab Emirates. The licences for such direct and (known) indirect arms exports to Arab states had a combined value about €15 million in 2011-2012. Since the end-user is not known in approximately two thirds of Flemish arms exports overall, however, we can expect the total value of Flemish arms export to be significantly higher than 15 million.

Several political parties in the Flemish Parliament have requested that Saudi Arabia be added also to this list of “on hold” countries because of human rights abuses in the country and the risk of re-export. In late May 2013, the Minister in charge stated that if new elements arose indicating that arms exports to Saudi Arabia should also be placed on hold, he would act accordingly.¹⁶⁸ While a press article claimed that weapons originating from Belgium had been exported to Syria via Saudi Arabia, the Minister stated in response to parliamentary questions that the types of weapons mentioned in the article were not made by Flemish companies. Thus placing arms exports to Saudi Arabia on hold was not considered justified. Further, he stated that no other EU Member State had put arms exports to Saudi Arabia on hold, with the exception of the Netherlands between March and December 2011. If other EU Member States were to restrict their export policy vis-à-vis Saudi Arabia, the Flemish government would also consider it. At the same time, the Minister announced a number of additional controls on arms export to Saudi Arabia. First, for every export and transit licence with Saudi Arabia as country of destination or end-use, a re-export clause would be required in the end-use certificate. Second, when assessing exports of military components, the Flemish government would not only take the export control policy of the recipient country into account, but also the clients of the systems integrator. If a clear link could be made in a specific project between the integrator and a Saudi end-user, the Minister said that necessary measures

¹ The export of unmanned aircraft and related equipment was destined for the industry in the United Arab Emirates, but had as end-user the armed forces of that country.

would be taken: ranging from including a commitment to apply for a Flemish approval in case of re-export, to a re-export interdiction or the denial of the Flemish export licence.¹⁶⁹

The Flemish government does not habitually refuse arms export licences: in 2007-2012 only 15 arms licence applications were formally refused. Interestingly, the majority of these denials were for arms exports destined for Israel. Since September 2006, successive Flemish governments have followed a policy of denying licences for arms exports to Israel, if the end-user is based in that country. Arms export licences destined for the Israeli defence industry are generally permitted on condition that the end-user is based in a third country and is acceptable to the Flemish government.¹ This *de facto* arms embargo on the Israeli armed forces is in line with a June 2005 resolution of the former Arms Trade Sub-committee of the Flemish Parliament, which asked the government to exercise the greatest possible caution when dealing with arms export licences to Israel, and to systematically inform the competent committee on this subject.¹⁷⁰ In January 2009 the Flemish Parliament adopted a resolution on the war in Gaza, in which it asked the Flemish Government “to continue its policy by which no arms export licences are issued with Israel as destination”.¹⁷¹ Out of the total of 15 denied Flemish arms export licences in 2007-2012, only one licence application (in April 2012) was for arms export to an Arab State: it involved second-hand military vehicles for logistical support and transportation with a value of €2.5 million, destined for the armed forces of Bahrain. Interestingly, in May 2011 the Flemish government also denied a transshipment licence for equipment for the production of ammunition originating from France – and exported with a valid French export licence – destined for Egypt. Both these denials were in line with the Flemish “on hold” policy on these countries that was implemented in February 2011.

The Walloon government’s reaction to the Arab Spring

Although arms export decisions were now no longer the object of political debate between the different linguistic communities of Belgium, arms sales to Arab states also caused consternation in the regional parliaments. The most controversial Belgian arms deal of recent years was undoubtedly the export of firearms and ammunition to Libya in 2009. When the UN and EU arms embargoes on Libya were lifted in 2003 and 2004 respectively, European defence companies set out to sell their weapon systems to the country. In 2008 *FN Herstal* was awarded a contract by the Libyan armed forces for the supply of 367 F2000 automatic rifles, 367 P90 submachine guns, 367 Five Seven pistols, 30 Minimi machine guns, 22,032 40-millimeter grenades for the F2000s and 1.1 million rounds of ammunition for the Khamis brigade, a well-equipped and well-trained regime security brigade of the Libyan Armed Forces loyal to Muammar Gaddafi and led by one of his sons. According to the licence application, these weapons were intended for securing a UN humanitarian corridor between Benghazi and Darfur. In addition, the contract included the sale of 2,000 FN 303 less lethal weapons to the Libyan police forces for riot control. The delivery of 50 Renaissance pistols, including a golden Browning gun for Gaddafi himself, was also part of the contract. According to some sources, this contract was part of negotiations for a much larger contract of €111 million and was considered a try-out for the introduction of *FN Herstal* firearms in the Libyan security forces.¹⁷²

When *FN Herstal* applied for export licences for this contract in 2008, the applications were considered as sensitive and additional advice was requested. A confidential report by the *Direction*

¹ This policy was expressed as follows in 2009 by the Minister in charge of monitoring the foreign arms trade: “Since September 2006, the export policy of Flanders with regard to Israel allows for the licensing of exports or transits of arms or related equipment to Israel insofar as these are re-exported from Israel to a third country to which Flanders would grant a licence for this export or transit in the case of a direct application.”

des Relations Internationales (Department of International Relations) of the Walloon government pointed to the risk of violation of the EU criteria and the very poor human rights situation in the country. Based on this report, an advisory committee decided to formulate a negative advice for the military part of the contract and a positive advice for the weapons destined for the Libyan police forces. Thereupon, *FN Herstal* and its labour unions started to campaign heavily in favour of granting the export licences. One of the ways *FN Herstal* put pressure on the Walloon government was by producing the weapons in advance and holding them ready to be shipped. This campaign had its effect, and soon three major political parties^I spoke out in favour of the export, using economic arguments and the argument that “if we do not deliver these weapons, others will”. In early June 2009 the advisory committee changed its position and voted in favour of the arms export.¹⁷³

On 8 June 2009, the day after the regional elections, the Walloon government decided to grant all the requested export licences and a couple of weeks later the first deliveries commenced. Arguing that Belgian legislation and the European Code of Conduct had been violated and that the weapons might be used for human rights abuses, two Walloon NGOs^{II} went to court to cancel the export licences in August 2009. Two months later, the Council of State (the highest court in Belgium) ruled in favour of the NGOs, arguing that a “caretaker government” was not competent to take such a weighty decision since no parliamentary control was possible. The Council of State immediately suspended the export licences. The Walloon government acknowledged this court ruling and stated that it would review the situation. In the meantime the Minister-President committed the government to making the workings of the advisory committee more transparent and to reviewing the licensing procedures for arms exports. Since not all the weapons had yet been delivered to Libya, the Walloon government granted new export licences for the remaining exports in November 2009, arguing that *FN Herstal* needed to fulfil its contractual obligations and that the government was no longer a “caretaker government”. Soon afterwards, all the weapons were delivered.¹⁷⁴ As a result, one of the NGOs took the case back to the Council of State, which in April 2011 confirmed its October 2009 ruling. By that time the Arab Spring had already violently arrived in Libya.

Video footage and pictures of *FN Herstal* firearms, including the recently shipped firearms, in the hands of Gadaffi’s soldiers and rebel forces were soon displayed in the international and national press. These images refuelled the debate on the Walloon government’s arms export policy vis-à-vis the Arab region. This debate centred mainly on the controversial firearms deliveries to Libya, and the development of a new regional legal framework for arms exports. Following the political controversy surrounding these deliveries, the Walloon Minister-President announced the establishment of a working group consisting of government officials and industry representatives, tasked to review the licensing procedure for arms exports. Within this working group a balance was sought between ethical criteria and employment. Three central principles considered essential when dealing with export applications were the international relations of the Walloon region; support for its economic activities; and respect for fundamental freedoms. The activities of this working group ultimately provided the basis for the development of the new legal framework. Over and above the need to implement EU Directive 2009/43/EC, this new legal framework was heavily influenced by the story of the Libya deal. In particular, new procedures were developed for arms export to sensitive countries. Specifically, Walloon companies wishing to export weapons to countries that were recently the object of an arms embargo, to countries that had recently experienced a coup d’état, or to countries that had received hardly any export licences in recent

^I The social-democratic party (Parti Socialiste), the liberal party (Mouvement Reformateur) and the green party (Ecolo).

^{II} The *Ligue des droits de l’homme* and *Coordination nationale d’action pour la paix*.

years, were obliged to inform the government of such planned exports before signing a contract and were not allowed to produce these weapons before the necessary export licence was granted. In addition, the advisory committee was reformed.

Given the traditional lack of transparency on arms exports from the Walloon region, little is known about restrictive measures taken by the Walloon government after the unfolding of the events of the Arab Spring - aside from adherence to EU arms embargoes. What is clear, however, is that these events have not led to more formally denied arms export licences, as no arms export licences for Arab states were denied in recent years.¹ Initial reports that Syrian rebels were using Belgian firearms delivered to them by Saudi Arabia and Qatar,¹⁷⁵ which were later confirmed by the Walloon Minister-President, sparked a temporary change in the Walloon government's arms export policy vis-à-vis Saudi Arabia and Qatar. On 9 March 2012 the government stated that it was suspending all new licence applications for the export of small arms and light weapons to these two countries. Less than two weeks later, however, on 20 March, the government stated that these licences were no longer suspended.¹⁷⁶ In response to a parliamentary question, the Walloon government on 28 March 2012 acknowledged the risk of undesirable re-export and stated it would consult the other EU Member States in the framework of the COARM meeting due in late April before taking a new position.¹⁷⁷ The Walloon government later stated that there was consensus among EU Member States in April that there was no proof of the export of European-made weapons by the two countries concerned to Syria;¹⁷⁸ it had therefore decided not to suspend arms export licences for Saudi Arabia and Qatar.

Interestingly, in view of the themes of the present report, this was not the first time the Walloon government had referred to information exchange and consultation between EU Member States. In the discussions on arms export to Libya, for example, the Walloon government also referred to European consultations: during a parliamentary discussion in February 2011 the Walloon Minister-President stated that during the licence procedure for arms exports to Libya in 2009 he had formally consulted the United Kingdom, which had previously denied a similar arms export to Libya, and also informally consulted France.¹⁷⁹

Overall, very little change can be observed in the actual arms export policy of the Walloon government vis-à-vis Arab states following the events of the Arab Spring. The clearest difference lay in the adaptation of the legal framework in the light of these events. Another change can be observed with regard to transparency. In response to the political debate on Wallonia's arms export policy for the Arab region, the Walloon government announced that it would provide for more transparency and more possibilities for parliamentary oversight. For example, the government decided it would now publish more information also on denied export licences (specifically, on the destination country); and that when it decided not to follow the advice of the reformed advisory committee it would have to justify its decision to parliament.

¹ The only two Walloon licences denied for arms exports to Arab states in 2008-2012 were for the export of firearms to Tunisia in 2008 (€229,490) and export of energetic materials to Egypt in 2009 (€125). The motives for denying these licences are not publicly available. Information on export licences denied before 2008 is not publicly available either.

3.3 Germany

3.3.1 Characteristics of German arms exports

Germany's arms export policy is formally based on the principle of restrictiveness, in particular in relation to exports to countries that are not members of the EU and NATO (and equivalent states).¹ Officially, for these so-called "*Drittländer*" (third countries), the German government will only allow the export of what is termed "*Kriegswaffen*" (weapons of war") in exceptional cases when this is in the interest of German foreign and security policy. The export of a broader category of military equipment is less restricted: the German government can refuse an export licence for military equipment only if it has clear grounds to do so. Human rights and internal and international conflict are supposed to play a central role in German government decisions on arms exports, and this has been a key element in German export policy since the 1960s.¹⁸⁰ The German government claims that it uses stricter criteria than demanded by the EU Common Position.¹⁸¹ Arms exports are the subject of regular public and parliamentary debate in Germany. As a result of political demands for more transparency, the German government publishes annual reports on arms exports that contain information about the value of the military equipment for which export licences have been granted, including the recipient country, and basic information about the type of equipment involved. Furthermore, increased parliamentary interest in arms export control has led to a discussion on the options for strengthening parliamentary control of the government's arms export control policy.¹⁸²

Despite often being portrayed as having restrictive arms export regulations, Germany has since decades been one of the largest exporters of weapons and military technology worldwide and to a wide variety of countries. In the period 2008-2012, Germany was estimated by SIPRI to be the world's third largest exporter of conventional weapon systems, accounting for an estimated 7 per cent of global arms trade, trailing at some distance behind the USA (30%) and Russia (26%), and roughly at the same level as France (6%).¹⁸³ According to reports by the German government, actual deliveries of 'weapons of war' (in the government definition) were between €1.3 billion and €2.1 billion per year since 2003. In the same period the value of individual export licences for all military equipment (including weapons of war) fluctuated between €3.7 billion and €5.8 billion.¹⁸⁴ German military equipment is marketed and exported throughout the world. According to the German government, in 2012 45 per cent of the value of all military equipment for which individual export licences were granted involved exports to EU countries and Germany's closest allies, i.e. NATO or NATO-equivalent states. In addition, Germany has special arrangements regarding the export of components for certain international arms development and production projects, such as the Typhoon/Eurofighter combat aircraft project which includes Germany, the UK, Italy and Spain. In these cases, Germany has agreed that the government of the country of final assembly of the weapons will be responsible for decisions about exports to third countries.¹⁸⁵ The total value of the military equipment for which *sammelausfuhrgenehmigungen* (combined export licences) were granted ranged between €737 million and €5.4 billion annually in the period 2003-2012.¹⁸⁶

German arms exports have consisted primarily of new complete equipment and components, and to a more limited extent of surplus materiel. Like German industry as a whole, the German arms industry is diversified and competitive on the international market¹⁸⁷, thanks especially to its high

¹ Australia, New Zealand, Japan and Switzerland

¹⁸⁷ In January 2014 *European Aeronautic Defence and Space Company (EADS)* was reorganized as the *Airbus Group*.

technology and high quality products. The Federal Association for the German Security and Defence Industry claims that the German 'security and defence industry' in 2011 had a combined production value of €22.6 billion and employed about 98,000 persons.¹⁸⁷ Estimates of the size and economic impact of national arms production are, however, in general questionable and are at best a rough indication. In SIPRI's list of the Top 100 arms-producing and military service companies in the world in 2012 relatively few companies are listed that have their headquarters in Germany: *Rheinmetall* (30th place), *ThyssenKrupp* (57th place), *Diehl* (63th place) and *Krauss-Maffei Wegmann* (73th place).¹⁸⁸ Like in France, in past decades a large proportion of the German arms industry has been integrated into the trans-European arms industry. As a result, a significant part of the production of components and final products by the *Airbus Group* - the 7th largest arms producer worldwide – takes place in Germany. There are many more small and medium-sized German companies that produce complete military items or components for integration by other companies into complete military systems. An example of the former is *Heckler & Koch*, which is one of the world's foremost producers of modern military rifles. An example of the latter is *Tognum*, whose military engines are used in tanks and armoured vehicles produced in Germany and elsewhere. The spectrum of military products manufactured in Germany involves all categories of main conventional weapon systems, small arms, support equipment such as surveillance and communication equipment and components, and production means for the manufacture of complete equipments elsewhere. In recent years exports of new armaments from Germany included *inter alia* deliveries or orders for submarines, tanks, artillery, armoured personnel carriers, corvettes, air-to-air and air-to-surface missiles, radars, combat aircraft, armed helicopters and military transport helicopters.¹⁸⁹

As in all European countries, the German armed forces have gone through a significant transformation since the end of the Cold War. As a result large quantities of military equipment became surplus stock. A portion of these weapons have been gifted to allied countries such as Greece, while others have been put up for sale on the international market. For example, surplus German Leopard tanks were sold to Brazil, Canada, Chile, Indonesia, Singapore and Turkey in the period 2008-2012.¹⁹⁰ In a number of cases, the German industry has been involved in refurbishing or modernizing such equipment as part of export deals.

3.3.2 German arms exports to the Arab region

Germany's policy on arms export in general and to Arab states has long been the focus of regular and intense political debate. These debates and the resulting export policies have been driven in particular by - on the one hand - concerns related to the impact of arms exports on regional stability, arms control, conflict prevention and resolution, and political relations with (perceived) allies; and on the other hand, the economic benefits of arms exports. The issue of authoritarian regimes and internal repression appears to have been less prominent in the debates in the 1970s and 1980s. A special factor has been the relationship between Germany and Israel, whereby Germany has taken into account Israeli anxieties about arms procurement by Arab states, and in particular the immediate neighbours of Israel - Egypt and Saudi Arabia. This led, for example, during the 1980s to decisions by various German governments to refuse the sale of certain heavy weapons (notably tanks) to Saudi Arabia and other Arab states. However, Germany has allowed the export of a wide variety of arms and military equipment to most Arab states throughout the decades since the 1960s.¹⁹¹

Information on recent German arms exports to the Arab region can be found in the annual government reports. An analysis of this information reveals a boom in German arms exports to the

Arab region: between 2007 and 2012 the value of licensed arms export increased from €203 million to €1,8 billion (see table 9). With 38% of all licensed sales in 2012, the Arab region has become the largest customer region for German arms exports. The figures in table 9 clearly indicate that the events of the Arab Spring did not have a negative impact on the overall volume of German arms exports to the region.

Table 9: Value of licensed arms exports to the Arab region from Germany, 2007- 2011

	Total
2007	202.7
2008	431.5
2009	962.9
2010	591.7
2011	1,115.6
2012	1,841.3
Total	5,184.6

Source: National reports by the German government, 2007-2012¹⁹²

Further, the total value of military equipment licensed for export that originates from Germany and will finally be delivered to end-users in the Arab region is likely to be substantially higher than the values provided in table 9, since the annual government reports provide little information on *Sammelausfuhrgenehmigungen* (combined export licences). These licences are for example used for the export of German components for the Typhoon combat aircraft which is developed, produced and upgraded by a consortium consisting of companies in the UK (accounting for 33 per cent of the work share), Germany (33 per cent), Italy (21 per cent) and Spain (13 per cent). Companies from each of these countries contribute components to the production of each Typhoon.¹⁹³ German companies for example supply parts of the engine, the flight control computer and the aircraft's gun.¹⁹⁴ Export marketing for the aircraft is shared between the partners. For example, the UK partner is responsible for the sale of Typhoons to Saudi Arabia, Italy for marketing to Libya, and Germany for marketing to India. A similar set-up existed for the Typhoon's predecessor, the Tornado, which was sold to Saudi Arabia in the 1980s from the UK; in that case, Germany as a major partner in the Tornado programme did not use its option of blocking the sale.¹⁹⁵ It is not always clear how Germany reports on the export of components for the Typhoon and other products of similar cooperation projects, but it seems likely that they are usually included in *Sammelausfuhrgenehmigungen*. Also not included in the official reports is information about the German government's decisions to allow re-export by other states of surplus goods originally delivered by Germany¹.

Taking into account the limitations of the available data, an analysis of the data in the national government reports shows that in the period 2007-2012 Germany granted licences for arms exports to most countries in the Arab region. The only Arab state that has not been identified as a recipient of weapons from Germany was Syria (with the exception of licensed arms export of

¹ For example, the Netherlands signed a contract with Jordan in 2013 for the sale of surplus Gepard mobile air defence guns, which the Netherlands had procured in the 1970s. Germany had granted a licence to the Netherlands in 2008 to re-export the weapons to. For more information, see Deutscher Bundestag (2013), *Schriftliche Fragen mit den in der Woche vom 8 April 2013 eingegangenen. Antworten der Bundesregierung, Deutscher Bundestag, 17. Wahlperiode, Drucksache 17/13046*, p22, <http://dip21.bundestag.de/dip21/btd/17/140/1714033.pdf>

vehicles destined for the embassies of NATO allies in the country) and direct exports of military products from Germany to Yemen and to Lebanon have been very small. The two most important markets for German military equipment in the Arab region are Saudi Arabia and the U.A.E. In the period 2007-2012, arms export licences to these two countries for a value of €1.9 billion and €1.5 billion respectively were granted by the German government. Other main Arab recipients of German weapons are Algeria, Iraq and Egypt (see table 10).

Table 10: Value of licensed arms exports (in million €) to the Arab region from Germany, by country of destination, 2007- 2012¹

	2007	2008	2009	2010	2011	2012	Total
Algeria	8.9	0.507	9.0	19.8	217.4	286.7	542.4
Bahrain	0.170	8.8	2.0	16.4	0	4.3	31.7
Egypt	15.1	33.6	77.5	21.0	74.2	10.7	232.2
Libya	23.8	4.2	53.2	6.1	0	1.2	88.5
Syria	0	0	0	0	0	0	0
Tunisia	0.264	0.069	3.1	1.6	4.0	2.1	11.1
Yemen	0.876	2.6	0	0	0	0	3.5
Qatar	2.6	5.2	1.3	4.0	6.1	17.6	36.8
Saudi Arabia	45.5	170.4	168.0	152.5	139.6	1,237.3	1,913.2
Iraq	6.8	7.2	(19.0)	54.3	244.3	112.7	444.2
Jordan	7.3	13.8	9.5	(1.0)	0.925	1.1	33.7
Lebanon	0	4.1	(0.400)	0	(0.200)	(0.500)	5.2
Kuwait	0.925	10.0	68.1	19.7	3.4	29.4	162.4
Oman	11.2	22.5	12.7	19.5	3.2	8.1	106.2
Morocco	9.8	6.5	37.2	13.2	(5.5)	4.8	77.1
UAE	69.3	142.1	540.8	262.5	356.9	124.9	1,496.4
Total Arab region	202.7	431.5	962.9	591.7	1,115.6	1,841.3	5,184.6

Sources: National reports by German governments 2007-2012¹⁹⁶

(..) = estimate, total minus licences for export to the foreign forces or aid organizations on the territory of the states listed as recipients in the sources.

The available data for the value of licences for exports of military equipment from Germany thus indicate an increase in the aggregate value of such licences over the period 2007-2012. In fact, with the exception of Libya and Bahrain, the value of licensed arms export to all Arab countries increased or remained stable in 2011-2012 compared to previous years (see table 10). At the same time, there was no significant increase in licences denied for exports to the Arab region. In 2007-2010 an annual average of 16.5 licences for arms export to the Arab region were refused by the

¹ Not including possible licences for certain equipment included in final equipment produced in third countries, and licences for export to the foreign forces or aid organizations on the territory of the states listed as recipients in the reports.

German government. In 2011 and 2012 respectively, 14 and 13 licences were denied. Most denials were for Bahrain and Egypt.

3.3.3 Reaction to the Arab Spring

A first reaction of the German government was to ask companies that held relevant licences for countries in the region not to use them until they had been reviewed in light of the current situation.¹⁹⁷ An analysis of the available data on licensed arms exports, however, indicates a spectacular increase in arms exports to the region in recent years, while the number of denied licences for this region did not increase. In the light of the 2011 Arab Spring and the comparatively restrictive German arms policy, this seems rather surprising. However, the events of the Arab spring differed widely between the states in the Arab region, and the German government made similarly varying decisions regarding its arms export policies to individual states there.¹ Within the scope of the present report, it is impossible to describe German arms export policy towards each Arab country. Instead we will illustrate our analysis with concrete examples of German export policy vis-à-vis Libya, Egypt and Saudi Arabia.

Several decisions made since 2009 to permit arms exports, in particular to Arab states, have been seen as indications of a 'paradigm shift' in which Germany has revealed willingness to use arms exports as part of its foreign policy tool-box.¹⁹⁸ The perceived new policy has been dubbed by leading weekly *Der Spiegel* as 'the Merkel doctrine', referring to statements by German Chancellor Angela Merkel in 2011 and 2012. She stated that the West can no longer solve global problems alone. Instead of choosing for military interventions, she suggested to strengthen security-related partnerships that include arms transfers: *"it's generally not enough to send other countries and organizations words of encouragement. We must also provide the necessary means to those nations that are prepared to get involved. I'll say it clearly: This includes arms exports"*. In general, the government justifies licensing arms export to Arab states by pointing out that with the help of these weapons, partner countries in conflict regions are supported in becoming 'anchors of stability'. Interestingly for our report, Merkel has also stressed the importance of more harmonized arms export policies: *"if we in NATO agree that the organization is not capable of solving all conflicts and that emerging, newly industrialized countries and regional organizations should take on more responsibility, then we in NATO also need to take steps toward a common policy when it comes to arms exports."* However, beyond these general statements there is no official German government document clearly laying out a new German arms export policy that explicitly defines arms exports as an integral part - or a more substantial part - of Germany's global foreign and security policy, and states how this affects the implementation of existing criteria.¹⁹⁹ On the contrary, the German government stated in October 2012 that exports of military goods are not a foreign policy instrument.²⁰⁰

Though there is still insufficient evidence for the claim of a true paradigm change in German arms export policy in general, as of 2014 all the indications are that the German government - despite the Arab Spring and intensifying debate in Germany on arms exports - has continued on the path

¹ Assessing developments in German arms export policy is made harder by the fact that these reports do not include information about preliminary indications provided by the German export control authorities on whether certain exports are likely to receive a licence. Such indications are given in response to requests from the industry. Several government responses to preliminary requests related to controversial potential arms exports to Arab states were given in recent years, but remain secret. Such decisions are based on advice – in effect, decisions – by the Federal Security Council (*Bundessicherheitsrat*), which consists of the German Prime Minister and eight members of the Cabinet. Its proceedings and decisions have until now been secret. It is, for example, still not officially confirmed whether the FSC took a decision in 2011 to indicate to the industry that it could count on an export licence for tanks to Saudi Arabia if that country decided to order them. For more information see Grebe, J.& Rossner, S. (2013), *Parlamentarische Kontrolle und Transparenz von Rüstungsexporten*, BICC, p. 13.

begun before 2011 of further relaxing its arms export policy towards several Arab states.²⁰¹ German governments of varied political complexions had already, since long before, allowed many types of weapons and military equipment to be exported directly from Germany to most of the Arab states. In addition, German companies have long been allowed to provide major inputs in the form of technology or components for weapons that have been supplied to Arab states from other countries. Such German exports of arms and military technology to Arab states seem to be primarily a function of the economic benefits for the companies involved and Germany as a whole, and less a direct instrument of German foreign or security policy, even though in some cases the importance of good relations with certain key recipients of German arms in the region has been mentioned in German government statements on arms exports.

The further erosion of Germany's restrictive export policy is best illustrated by the break with the past practice of not allowing the exports of tanks to Arab states in general and Saudi Arabia in particular. The Kingdom of Saudi Arabia has for decades imported German military equipment, even though Germany did place certain restrictions on arms exports to the country. The main reason seems to have been Germany's wish not to directly supply arms that could be a threat to Israel. Several examples in the period 2007-2010 reveal how varied German arms exports to Saudi Arabia had become before the Arab Spring, including weapons that could be directly used in repression of civilians or against armed rebel groups. During 2007-2010 the largest military procurement contract that Saudi Arabia signed was for 72 Typhoon combat aircraft. Under the 2007 agreement, the British partner in the Eurofighter Typhoon programme (*BAE Systems*) would supply the aircraft together with armaments, training and after-sales services. As mentioned earlier, Germany has a 33 per cent stake in the Typhoon programme and German companies supply key components for the aircraft.^I

Arguably, the clearest example of weapons widely used in human rights abuses has been the supply of small arms from Germany to Saudi Arabia. In the period 2007-2010 the German government granted licences for the export of thousands of rifles to Saudi Arabia. Additionally, in 2008 a licence was granted for the export of technical information and tools to a factory in Saudi Arabia for production of G-36 rifles (the successor of the G-3^{II}) using Saudi and German-produced components^{III}. This was not a new departure: since the 1970s Saudi Arabia has produced the German G-3 rifle and MP-5 sub-machine gun under licence from Heckler und Koch. Interestingly, the German government placed some restrictions^{IV} on the recent Saudi production of G-36 rifles.²⁰² German export licences for military vehicles were not granted before 2011, although German components were used for the modernization of Saudi armoured vehicles.^V

^I The same is true for the German involvement in the Tornado combat aircraft, essentially the predecessor of the Typhoon. From 1986 to 1998 120 of these aircraft were delivered from the UK to Saudi Arabia, and in this case also the aircraft contained a significant number of German components. Combat aircraft, very probably including Tornados, were used in 2009 by Saudi Arabia in attacks on Yemeni rebels, showing how such weapons can play a role in conflicts between rebels and governments. For more information, see Amnesty International (2010), *Yemen: cracking under pressure*, London: Amnesty International, <http://www.amnesty.org/en/library/asset/MDE31/010/2010/en/da8bd0cc-37ab-4472-80b3-bcf8a48fc827/mde310102010en.pdf>

^{II} From around 2005 Saudi Arabia started to equip at least some of its armed forces (Saudi Arabia has several different military and security forces) with the G-36

^{III} The new factory reportedly delivered its first assembled G-36s in early 2011 and reportedly production for the Saudi armed forces will continue until at least 2020.

^{IV} The German government has stated that for the production of the G-36, Saudi Arabia is dependent on key components from Germany and Saudi Arabia has not received the German technology to produce these itself.

^V For example, in 2008 German company *Tognum* signed a €10 million contract for the delivery of engines for a programme to upgrade 300 Saudi M-113 armoured vehicles by the Turkish company FNSS. For more information, see Rolls Royce Power Systems (2008), *Tognum repowers approx. 300 APCs for Saudi Arabia*,

The marked increase in value of licensed arms exports from Germany to the Arab region in general, and Saudi Arabia in particular, triggered much media attention and political debate in Germany. The most important discussion related to persistent reports that Saudi Arabia was keenly interested in procuring Leopard-2A6 or Leopard-2A7+ tanks¹ and that the German government was willing to allow the sale, in a break with previous policy not to supply tanks to Saudi Arabia. Earlier interest by Saudi Arabia in versions of the Leopard-2 tank, dating back to the 1980s, had been blocked by German government refusals to allow the export of tanks and certain other heavy arms to the country.²⁰³ In July 2011 information leaked out that the *Bundessicherheitsrat* (Federal Security Council) had that month in principle approved the potential sale of 200 Leopard-2A7+ to Saudi Arabia.²⁰⁴ The deliberations in the Security Council are secret and no official confirmation has been given that this decision was taken. The reports drew strong criticism from opposition parties. In response to questions during an parliamentary debate in July 2011, the German Deputy Minister of the Economy neither denied nor confirmed the decision, but stated that Saudi Arabia had obtained German weapons for many years and that this could be justified by German security considerations related to Saudi Arabia's role in fighting terrorism and towards Iran.²⁰⁵

Reportedly, there was fierce discussion in the Federal Security Council over the sale of the Leopard-2 tanks because of the fear that if the Arab Spring should spread to Saudi Arabia, these German vehicles would be used for suppressing rebellious crowds. The opposing voices in the end deferred to the Cabinet's decision to approve the sale.²⁰⁶ In mid-2013 the German Government once again refused to comment on the reports that a potential deal had been approved *a priori*, but it was again emphasized that Saudi Arabia was considered an important partner for Germany in economic and political terms and in the fight against international terrorism. It was further argued that Saudi Arabia was working towards a peaceful solution for the conflict between Arab states and Israel, had played a central role in the peaceful power transition in Yemen, and - as an influential regional power - had a decisive role in resolving the situations in Egypt and Syria.²⁰⁷ In late 2012, the discussion about arms exports to Saudi Arabia was further fuelled by reports that the Saudi Arabian Royal Guard was interested in procuring hundreds of Boxer wheeled armoured vehicles from Germany, but that the Federal Security Council had not yet been able to come to a conclusion about giving approval in principle.²⁰⁸ Again the government did not confirm these reports even though it was confirmed that a Boxer had been demonstrated in Saudi Arabia in 2011.²⁰⁹ The Saudi interest in German vehicles also sparked interest from other Gulf countries. The successful tests of a Leopard-2 tank in the Saudi desert (to test the vehicle under extreme heat conditions) in July 2012¹¹ sparked attention from other countries, including Qatar.²¹⁰ This interest was mutual. The German willingness to start selling tanks to authoritarian Arab states became obvious when in spring 2013, Qatar signed a €1.9 billion contract for 62 Leopard-2 tanks and 24 PZH-2000 howitzers to be delivered from 2014.²¹¹ The negotiations for this contract had started around 2009 when the German Security Council reportedly gave a preliminary permission.²¹²

The example of Saudi Arabia illustrates that for most destination countries, German arms export policy did not become more restrictive but instead more permissive, with a spectacular rise in the value of arms exports as a result. Only in the case of Libya does Germany appear to have become more restrictive and stopped all exports in 2011, also in line with the UN arms embargo imposed on Libya in that year. This was, however, not a significant break from the past, as German exports

[http://www.rrpowersystems.com/index.php?id=3956&tx_ttnews\[tt_news\]=1000119&tx_ttnews\[single_display_mode\]=text&cHash=8432b43bc03e3f063eff8cf67e40057c&from_tognum=1](http://www.rrpowersystems.com/index.php?id=3956&tx_ttnews[tt_news]=1000119&tx_ttnews[single_display_mode]=text&cHash=8432b43bc03e3f063eff8cf67e40057c&from_tognum=1)

¹ In particular, the Leopard-2A7+ version was specifically developed for use in combat in Afghanistan. In other words this type is optimized for use in internal conflicts.

¹¹ The German Ministry of Defence sent along an army officer to ensure safety during test firing of the tank's guns.

of military equipment to Libya before 2011 were modest. Since 2003 when the EU lifted its previous arms embargo on Libya, no major conventional weapon systems were exported directly from Germany to Libya, although some export licences were granted for equipment such as helicopters, communication and jamming equipment, ground surveillance radar, and components of reconnaissance vehicles. While a large number of defence companies from several other EU states (including the UK, France and Italy) aggressively marketed a wide range of conventional military technology to Libya, and received direct support from high-level political leaders in their home countries, the German government appears to have been restrictive in its arms export policy towards the country despite Libya's interest in German weapons¹. At the Libdex military and security technology fair in Tripoli of 2010, for example, reportedly only two German companies were listed as exhibitors.²¹³

Though direct exports of Germany military equipment and technology were limited, German companies supplied key components for weapons exported or marketed by other states to Libya. The prime example was the case in 2007 when the French branch of the trans-European company MBDA received a €170 million contract for the delivery of 1000 MILAN-3 portable guided missiles¹¹ together with 100 launchers.²¹⁴ The export of these components did not show up in the government's annual report,²¹⁵ presumably because it was classed as an example of *sammelausfuhrgenehmigung*, and it led to some political criticism; but the German government argued in 2007 that it would stick to the tried and tested Franco-German approach for handling exports of co-produced weapons and thus would not try to block the sale.²¹⁶ However, this was not always the case. Although an Italian Typhoon combat aircraft was demonstrated at the Libyan LAVEX air show in 2009, Britain and Germany vetoed the potential sale of Typhoons to Libya,²¹⁷ and in the same year the German government reportedly expressed its reservations to the French government when Eurocopter (a subsidiary of the Airbus Group) wanted to sell its Tiger combat helicopter to Libya.²¹⁸

When the UN imposed its arms embargo on Libya on 26 February 2011 (followed by an EU arms embargo, see *supra*), Germany completely ceased its arms export to the country. After these restrictions on arms supplies to the new Libyan government were lifted in September 2011, licensed arms exports from Germany remained very limited. In 2012 licences were granted for the export of military vehicles, protective equipment and ammunition for a total value of €1.2 million.²¹⁹

Though it has been reported that around 2009 Germany tried to veto the marketing of the Typhoon combat aircraft to Libya, there is no indication that Germany tried to do this elsewhere in the Arab region. In 2013 the UK company BAE Systems, with support from the British government, took the lead in negotiations with the Bahraini government regarding the possible sale of 12 Typhoon aircraft to Bahrain.²²⁰ This suggests that it was only in the case of Libya that the German government significantly tightened its arms export policy following the events of the Arab Spring. In other cases the events of the Arab Spring resulted at the most in short suspensions of arms exports, or the formal re-assessment of existing licences. In March 2011, for example, it was

¹ Libyan interest in German weapons and the potential status of such weapons seems to be illustrated by the incident in which Saif Gaddafi brandished a German G-36 rifle while addressing a crowd in February 2011. It was later reported that this gun was part of a batch of G-36s that had been acquired by Libya via another country without an export or re-export licence from the German government. For more information, see: Die Zeit (2012), Optimal im Nahkampf. Das Rüstungsunternehmen Heckler & Koch steht wegen Waffenausfuhren abermals in der Kritik, *Die Zeit Online*, 10 February, <http://www.zeit.de/2012/07/Ruestungsfirma-Heckler-Koch/komplettansicht>

¹¹ The MILAN-3 has been developed by MBDA subsidiaries based in France and Germany. The German partners in the project produce the complete launcher and the missile's warhead. Final assembly of the missile takes place in France from where the actual export of the combination of missile and launcher takes place.

reported that Germany had suspended the issuing of new licences for all arms exports to Tunisia and Bahrain. All existing licences for export of military equipment to the region were re-assessed with an eye to the risk of the items exported being used in internal repression. None of the licences was revoked.²²¹ In 2011 and 2012 13 licences were refused for exports of items to Bahrain worth a total of €8.1 million. No export licences for Tunisia were denied in this period. It is not clear when the suspensions were lifted, but the figures in table 10 show that in 2012 export licences for both countries were again being granted by the government.

The best illustration of the German government's policy of short-term suspensions when confronted with outbursts of violence is its policy towards Egypt. The most significant exports of German military equipment and technology to Egypt in the years preceding the Arab Spring involved the production of the Fahd armoured vehicle by the Egyptian company AOI. Production of this wheeled armoured vehicle,ⁱ used for troop transport and designed by a German company which is now part of *Rheinmetall*, started in 1985. Since that date 1,500 Fahd armoured vehicles have been produced.²²² The Fahd is in widespread use with the Egyptian armed forces and internal security forces. For the production of this vehicle in Egypt, the German government granted licences for the export of components in all years from 1998-2012. The value of these items licensed for export peaked in 2011 at €56 million. In addition, licences have been granted for the components for other Egyptian armoured vehicles, M-113 and BMR armoured personnel carriers and M-1 tanks.²²³ Other items for which export licences were granted included communication and navigation equipment and small arms and ammunition.²²⁴ In the years before the outbreak of the Arab Spring, Egypt discussed the purchase of conventional weapon systems from Germany. Following the earlier procurement of surplus German naval equipment - for example, five Type-148 missile armed Fast Attack Craft in 2002-2003 - Egypt showed interest in surplus or new German submarines, though no contract was agreed before 2011.²²⁵ The export of significant amounts of arms to Egypt, however, does not mean that every export licence that German companies applied for was granted. In 2007-2010 29 licences for export of firearms, ammunition, unfinished products, production equipment and technology with total value of €31.8 million were denied. In this period 16% of all applications for arms export to Egypt were refused.

When the violence in Egypt erupted in 2011, it soon became clear that German-made military equipment was being used. During the internal violence in Egypt in 2011-2013, the Fahd armoured vehicle in particular was widely deployed by the Egyptian armed forces,ⁱⁱ but internal security forces also used the M-113 and M-1A1 tanks in this period. Confronted with the violence, Germany suspended decisions on requests for export licences to Egypt in February 2011.²²⁶ This suspension was later lifted after an assessment of the situation in Egypt.²²⁷ Although the date when the suspension was lifted has not been revealed, we now know that in November 2011 the German Federal Security Council approved the sale to Egypt of two Type-209 submarines produced by the German company *HDW*.ⁱⁱⁱ This reportedly caused a dispute between the German and Israeli governments. The Israeli prime minister demanded in the press that the deal should be cancelled. The German government responded that *"there has been no change in the German government's position towards Israel, in the commitment the German government feels towards Israel's security"*, and declined to comment on the deal.²²⁸ In August 2013 the German government stated that production of the two submarines had started but that a final decision about permitting actual delivery could be postponed until the boats were completed around 2016.²²⁹ In the meantime,

ⁱ The Fahd vehicle exists in versions with and without machine guns or a light gun mounted in a turret, and is in widespread use with the Egyptian armed forces and internal security forces.

ⁱⁱ The vehicle is highly visible in many images of violent events in Egypt. In October 2011 two Fahd vehicles drove intentionally into a group of demonstrators, leading to the death of up to 12 persons.

ⁱⁱⁱ The German government also provided an export credit guarantee for the deal worth €700 million.

other arms export to Egypt recommenced. In 2012 the German government again approved export licences for components for the Fahd worth €3.5 million, followed by licences for the export of parts for armoured vehicles worth €3.9 million in 2013. In 2012 the total value of licensed arms exports to Egypt was €10.7 million and included, aside from vehicle components, a wide range of military equipment such as communication equipment and components, firearms and fire control systems. In the same year five licence applications for exports of firearms and military technology were denied.²³⁰

After the bloodshed in Egypt in summer 2013, a German government spokesman stated that armoured vehicles and automatic weapons had not been delivered for several years and that in mid-August 2013 Germany had again suspended all decisions about requests for export licences to Egypt.²³¹ The German government then proposed an EU arms embargo on the country. Because of a lack of consensus among the Member States, no arms embargo was declared. The Member States instead agreed to suspend export licences for equipment that might be used for internal repression, and to reassess their arms export licences (see *supra*). At the time of writing this report, it is unclear what steps Germany has taken to stop all weapon deliveries to the country.

In general, we can conclude that the Arab Spring did not significantly impact upon Germany's arms export policy towards the Arab region. For some Arab countries (Tunisia, Bahrain and Egypt) the events of the Arab Spring resulted in short suspensions of arms exports or the formal re-assessment of existing licences. The only clear break in arms export policy was towards Libya. Syria had not been a recipient of German arms in recent years. Instead of more restrictiveness, we can observe that Germany's traditional rather restrictive arms export policy has been further eroded. In the years before the Arab Spring, Germany was already loosening its export policy towards several Arab states. The German government has continued on this path, for example by allowing the exports of tanks to Arab states. This continued erosion of Germany's restrictive arms export policy has resulted in record values of arms exports to the Arab region, while only a small number of transactions have been refused. This policy seems mainly driven by economic interests and less intended as a direct instrument of German foreign or security policy, although in some cases the importance of good relations with certain recipients of German arms in the region plays an important role. In particular, the privileged relationship with Israel seems to remain a driving force of Germany's arms export policy to the region.

The erosion of its export policy towards the Arab region has sparked political debate in Germany. Discussions about German arms exports to Arab states have been linked with a drive to increase transparency. After the 2013 elections the two major political parties agreed that their planned coalition government would increase transparency in arms export decisions by releasing final decisions made by the Security Council about export licences, though not the advice related to preliminary requests, immediately after they are made. They also agreed to ensure that the annual German arms export report would be more timely and released before the summer, instead of the current practice of releasing it in the last quarter of the year following the year on which it reports.²³²

3.4 The Netherlands

3.4.1 Characteristics of Dutch arms exports

The foreign policy of the Netherlands is formally based on three pillars: security, freedom and prosperity. In pursuit of these, the Netherlands strongly believes in a multilateral approach: given the limited direct impact it can have in the world, it tries to exert its influence as much as possible within the EU and other international organizations. The security pillar is primarily based on active membership of various political and military alliances. In its *International Security Strategy*, the Dutch government strongly emphasizes the importance of the transatlantic alliance for its national security and considers itself a loyal NATO partner.^I Recent Dutch participation in various NATO missions in Afghanistan, Libya and Iraq underlines this. Within the EU, the Netherlands is a supporter of a stronger Common Foreign and Security Policy (CFSP) and Common Security and Defence Policy (CSDP). Under its second pillar (freedom) the Netherlands strongly focuses on Human Rights^{II}, including defending human rights in oppressive regimes and tackling human rights offenders.²³³ In addition, the Netherlands profiles itself as an important actor in promoting an international system of law with Den Haag as the juridical capital that is home to for example the International Court of Justice and the International Criminal Court.²³⁴ Under the third pillar (prosperity) of foreign policy, the Netherlands strongly focuses on supporting international trade and stimulating an export-oriented economy.

The basic tenet of Dutch arms export policy is that it views arms exports as necessary for the continuity of its knowledge economy, but at the same time acknowledges that in the interest of the international rule of law and the promotion of peace and security, certain limits on arms exports are indispensable. Within these boundaries and after approval by the government, the Dutch defence industry is allowed to export its products to fulfil the legitimate defence needs of third countries.²³⁵ Dutch arms export policy is deeply rooted in the broader foreign policy of the country and incorporates the three above-mentioned pillars. In 2010 the *Inspectie ontwikkelingssamenwerking en beleidsevaluatie* (IOB), a policy evaluation division of the Department of Foreign Affairs, evaluated the Dutch arms export policy and concluded that this policy is primarily aimed at guaranteeing international, regional and national security. Besides this security interest, Dutch arms export policy is also strongly influenced by national economic, political and defence considerations.²³⁶

In line with the strong emphasis on political and military alliances, Dutch arms export policy is characterized by a simplified procedure for export to political and military allies: licences for arms export destined for other EU countries, members of NATO, and four other industrialized countries^{III} are solely handled and assessed by a department of Dutch Customs. A deeper evaluation of these licence applications is deemed not necessary because of the lack of security risks and the similarity

^I Although historically speaking the Netherlands for a long time followed a policy of neutrality, it became a member of NATO after World War II.

^{II} In its policy documents, the Dutch government defines five priorities in this context: defending human rights in oppressive regimes, tackling human rights offenders, supporting human rights defenders, supporting freedom of speech and promoting corporate social responsibility. From this Human Rights perspective, the Netherlands is an active supporter of the “Responsibility to protect”- principle (R2P): it is co-president of the *Group of Friends on Responsibility to Protect* and participated in the R2P intervention in Libya.

^{III} Australia, Japan, New Zealand and Switzerland

of export control systems.^I Arms export licences destined for other countries are *de facto* a shared competence between the Minister of Foreign Affairs (FA) and the Minister of Foreign Trade and Development Aid (FTDA). For these applications, a thorough assessment of the eight common EU criteria takes place.^{II} This shared competence for arms export policy is no coincidence and illustrates the Dutch balancing act between promoting exports while at the same time promoting international security, peace and stability. While the minister from the FTDA is responsible for protecting the interests of Dutch companies, the minister from the FA has to make sure that international law is respected and the export does not threaten international peace and security.²³⁷

The Netherlands has been an active promoter of more harmonized European arms export policies since the early 1990s. For example, it was one of the first EU Member States to support the development of common criteria and a system of information exchange. Since the adoption of the EU Code of Conduct in 1998, the Netherlands has played a significant role in improving the European framework for arms export control, particularly by pushing for improvements in the fields of public transparency and intergovernmental information sharing.²³⁸ This European focus is still present in today's Dutch arms export policy. In recent policy documents too, the Dutch government has identified greater European harmonization, more transparency, a strict interpretation of the European assessment criteria for arms exports, and a level playing field for Dutch companies within the EU as key points.²³⁹ The importance of achieving a level playing field within the EU is not a new feature. This was also emphasized in the government's "Defence Industry Strategy" developed in 2007 by the ministries of Defence and Economic Affairs.²⁴⁰ In this connection, the ministers of FA and FT recently explicitly hailed the denial notification procedure within the EU as an important instrument for more harmonization. The government stresses that in the event of a denied application, it shares information on this application as soon as possible with other EU member states.²⁴¹ Yet, while more harmonization within the EU is clearly supported by successive Dutch governments, policy also states that if a level playing field is lacking the Dutch defence industry should be promoted as much as possible.²⁴²

The Netherlands was identified as the 11th most important supplier of conventional weapons worldwide in the period 2008-2012.²⁴³ This relatively high ranking of the Netherlands is rather surprising given that the country is not particularly known for a large defence industry or major defence companies. In SIPRI's list of the Top 100 of arms-producing and military service companies in the world,^{III} only one Dutch company was listed (*Thales Nederland*).²⁴⁴ The Netherlands is characterized by a relatively modest defence industry that is mostly focused on niche markets. The added value of this industry to the economy is estimated by the government at 0.5 per cent.²⁴⁵ The most important Dutch defence companies are *Fokker* (components for military aviation), *Damen Schelde Naval Shipbuilding* (military ships) and *Thales Nederland* (naval command and control systems, ground-based air defence systems, telecommunication equipment).²⁴⁶ The high position of the Netherlands in the list of most important supplier of conventional weapons is the mainly the result of the sale of surplus military equipment of the Dutch armed forces.

A recent study on behalf of the Dutch Minister of Economic Affairs counted in total 451 companies that considered themselves part of the defence and security industry.^{IV} Most of these are hi-tech

^I The Central Service for Import and Export (*Centrale Dienst voor In- en Uitvoer* - CDIU) of Dutch Customs checks and assesses these licence applications. The scrutiny of these licences is focused on checking the presence of all necessary information and documents

^{II} This assessment takes into account the present situation in the country of destination, the nature of the product, the final destination and the end-user. The assessment is coordinated with the relevant regional departments and (in the case of exports to a developing country) with the Department of International Cooperation

^{III} excluding China

^{IV} According to the government, 320 of them are actually active in this sector.

companies that mainly focus on the civil market: the turnover of €3,1 billion in defence and security transactions accounts for only 7% of the total turnover of these companies. Although the turnover increased slightly in 2010, an overall declining trend can be observed. The value of defence and security exports was estimated at €2,2 billion in 2010.¹ In total, the number of employees in this sector is estimated at 14.200. The defence industry consists mainly of smaller enterprises: 30% have less than 10 employees and 60% less than 50 employees. This is considered the main weakness of the industry: the smaller companies have difficulties in fully participating in the trend of globalization, applying for large tenders, and applying for framework agreements. The defence and security activities of Dutch companies are focused mainly on the aerospace, maritime, and C4i sectors and information technology. With a few exceptions in the maritime sector, Dutch defence companies do not produce and deliver complete systems, but only components used for arms production elsewhere. One of the biggest changes in the Dutch defence industry since 2000 has been the disappearance of its small arms and ammunition production, which was the source of most of the more sensitive Dutch arms exports during the 1980s and 1990s.²⁴⁷

About 70% of the turnover of the Dutch defence industry is accounted for by exports and most customers are located in European countries and the United States. Despite its decreasing budget, the Dutch Ministry of Defence is also considered an important driver of the local defence industry because of its participation in multi-national weapon development projects, such as the NH-90 helicopter (involving *Stork Fokker Aerospace*) and the Boxer armoured vehicle (involving *Rheinmetall Nederland*). More than 60% of the current defence and security companies stated that they had benefited from the offset policy of the Dutch Ministry of Defence (MOD).²⁴⁸ The Dutch MOD is not only important because it provides orders and jobs for the local defence industry, but also because it is a significant exporter of military equipment. Between 2003-2006 the Dutch government sold surplus military equipment valued at almost €1.5 billion, accounting for a third of the total value of Dutch arms exports in that period.²⁴⁹ The increase in arms exports from the Netherlands from the mid-1990s onwards can largely be attributed to the sale of this surplus military equipment.²⁵⁰ Although the Minister of Defence in 2007 declared that more equipment would be sold, the value of exported surplus material decreased significantly from then on: between 2007-2011, MOD exports had a total value of approximately €400 million.²⁵¹ When looking for buyers of surplus equipment, the Dutch government has stated that it looks first to other EU or NATO countries. This is, however, often not successful since these allies are often engaged in similar efforts to re-orient their arsenals and thus not eager to buy Dutch surplus equipment. Buyers outside the circle of immediate allies are therefore often sought and found.²⁵² To a significant extent, the sale of these surplus vehicles, ships and airplanes by the Dutch armed forces explains the remarkably high ranking of the Netherlands in the worldwide conventional weapons trade.

3.4.2 Dutch arms exports to the Arab region

The Arab region is traditionally not an important recipient region for Dutch arms exports. In 2007-2012 it accounted for 7% of all Dutch arms exports, but the annual value of licensed arms exports fluctuated strongly (see table 11). These fluctuations reflected the fluctuating success of marketing strategies by the Dutch marine sector, supported by the Dutch government, in the search for production contracts for new ships. In 2009 arms exports to the Arab region accounted for more than 40% of total Dutch licensed arms exports as the result of one high-value licence for the export of frigates to Morocco. In February 2008 the Moroccan Navy signed a contract with Dutch company

¹ Not all of these exports involve equipment that requires a license to be exported.

Damen Schelde Naval Shipbuilding^I for the production and delivery of three Sigma Corvette naval ships. The ships would be used for patrolling Morocco's coastal waters in the Mediterranean Sea and the Atlantic Ocean,^{II} thus allowing the Moroccan Navy also to use the ships for NATO exercises. The value of the contract was estimated at more than €500 million and was considered very important for the Dutch naval industry, because it would create employment for at least four years and thousands of jobs for the shipbuilder and its subcontractors. It also opened the door for further exports of corvettes, frigates and patrol vessels built by the Dutch shipbuilder.²⁵³ In 2012 *Damen Schelde Naval Shipbuilding* failed to secure a contract with the Sultanate of Oman for the construction of four patrol ships with an estimated value of more than €500 million. If the Dutch company had obtained the contract, an export licence would very probably have been granted by the Dutch government and licensed arms exports to the Arab region would have reached a level similar to 2009. This illustrates how the value of Dutch arms exports to the Arab region is more dependent on securing production contracts for the country's maritime sector than on changes in the nation's arms export policy triggered by the Arab Spring. The very low value of licensed arms exports to the Arab region in 2011 is therefore probably not the result of the events of the Arab Spring. We shall expand on this further in the next section of the report.

Table 11: Value of licensed arms exports (in € million) to the Arab region from the Netherlands, 2007- 2012

	Value	% of total arms export
2007	127.7	14,6%
2008	13.6	1,1%
2009	603.8	42,8%
2010	43.5	4,2%
2011	0.760	0,1%
2012	72.0	7,6%
Total	861,4	7,3%

Sources: National reports by the Dutch government, 2007-2012

Annual reports by the Dutch government on licensed arms exports indicate that in the period 2007-2012 Morocco, Oman, Jordan, Qatar and Egypt were the largest recipient countries of Dutch arms

^I *Damen Schelde Naval Shipbuilding* is the only naval shipbuilder in the Netherlands and a subsidiary of *Damen Shipyards Group*. This group consists of more than 30 major shipyards and operating companies around the world and has built more than 4,000 commercial and military vessels. It currently employs almost 8,500 people and has nearly €1.5 billion in annual turnover. *Damen Schelde Naval Shipbuilding* focuses on the international market for patrol ships, corvettes, frigates, large amphibious support ships and helicopter carriers

^{II} The ships will be supplied with Thales TACTICOS combat management system, MBDA Exocet anti-ship missiles, MBDA MICA anti-air missiles, an Oto Melara main gun, a Thales SMART-S Mk2 surveillance radar and a Thales LIROD Mk2 tracking radar. According to *Damen Schelde Naval Shipbuilding*, the Moroccan Navy contacted them after negotiations with France for new warships fell apart in 2007 and because of the long-standing ties between *Damen* and the Moroccan Navy. The production of the Sigma ships started almost immediately after signing the contract. The export licence for these ships was granted by the Dutch authorities in 2009 (hence the high-value of licensed exports in 2009). The first ship was delivered to Morocco in the middle of 2011. The second and third ships were transferred to the Moroccan Navy after successful sea trials and outfitting details in 2012. Part of the deal also involved training given to the Moroccan Navy to operate the ships by the Dutch Navy. According to a 2008 report by the Dutch NGO "Campaign against Arms Trade", an export licence for the delivery of these ships to the Moroccan Navy would not be in accordance with European Code of Conduct, especially criterion 8 on the compatibility of the arms exports with the technical and economic capacity of the recipient country. Yet in contrast to delivery of similar ships to Indonesia a year earlier, the contract for the Moroccan Navy did not stir up much parliamentary or societal debate in 2008.

exports in the region. The high value for Morocco was the direct result of the above-mentioned order for frigates in 2008, while Jordan has bought surplus conventional weapons systems (armoured vehicles and F-16 fighter jets) from the Dutch Ministry of Defence in recent years. Egypt, Oman and Qatar are important recipients of Dutch maritime electronics.

3.4.3 Reaction to the Arab Spring

The Netherlands has one of the highest levels of public transparency in the EU, largely driven by pressure from parliament and civil society. Since 1997 the Dutch government has submitted a biannual report to its parliament, followed by a general public consultation between the parliament and government.^I Over the years an increasing amount of information on granted licences has been published in these reports, and since 2004 the Dutch government also publishes monthly online reports that are publicly available.²⁵⁴ Despite this high level of public transparency, arms exports to the Arab countries received only occasional parliamentary attention before the events of the Arab Spring. In 2004, for example, the government encountered criticism in parliament and from civil society for signing a contract for the sale of 431 YPR armoured vehicles from the Dutch Armed Forces to the Armed Forces of Egypt. According to Dutch NGO *Campagne tegen Wapenhandel* this was the start of a relaxation in the previously restrictive arms export policy towards Egypt. In the period 1999-2003 seven applications for export licences were denied because Egypt did not fulfil its international obligations with regard to arms control, because of regional tensions, and Egypt's behaviour towards the international community. To justify the decision to export surplus armoured vehicles to Egypt, the government stated that political advice was sought from the Ministry of Foreign Affairs^{II} and that this advice was positive, based on a critical assessment of the criteria of the Dutch arms export policy. With regard to the risk of deterioration in internal tensions or conflicts, the government stated that the exported equipment would not aggravate the situation and that the Egyptian Armed Forces had not used their equipment against their own population.²⁵⁵ In its 2010 evaluation of Dutch arms export policy, IBO criticized the sale to surplus equipment to Egypt because of its bad track record on human rights. This division of the Department of Foreign Affairs indicated that this decision conflicted with the Dutch human rights policy and feared selling this equipment was sending the wrong message.²⁵⁶

The unfolding of the Arab Spring fuelled a strong parliamentary debate on various developments and aspects of these events. From the different debates and government papers we can observe that the three basic pillars of Dutch foreign policy were reflected in Dutch policy in reaction to the events of the Arab Spring. The Dutch government applauded the democratization process and soon stated that it wished to support the democratic transition, economic growth, protection of human rights and the rule of law in the Arab region. In the Netherlands' view, the political and economic situation in North Africa and Middle East had important consequences for its own national security and prosperity: contributing to the democratization of these countries would bring more stability along the borders of Europe, which would also limit the risk of illegal migration and lower the terrorist threat.²⁵⁷ The Dutch government used the credo "*multilateral where possible, bilateral where needed*" as a starting-point for its commitment to the democratization of the Arab region.²⁵⁸ In particular, the EU's European Neighbourhood Policy^{III} was seen as a crucial element since the

^I Not all discussions are public. The Dutch parliament can request further information on specific deals in private sessions.

^{II} In 2007 the Ministries of Defence and Economic Affairs were responsible for controlling arms exports by the Dutch Armed Forces.

^{III} The European Neighbourhood Policy was started in 2004 as the comprehensive policy instrument for the eastern and southern neighbours of the EU. The southern neighbours include Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, the Palestinian territories, Syria and Egypt. More than €8 billion was allocated for the financing of programmes in these countries in 2007-2013.

financial aid accompanying this policy could be used as leverage for achieving more freedom, democracy, the rule of law and better protection of human rights.²⁵⁹ The Dutch government also launched bilateral attempts to support democratic transition processes in the Arab region. With an integrated plan of action the Dutch government sought to support sustainable transitions based on economic growth, inclusive democracy and the rule of law. Since 2012 the Dutch governments has focused its efforts on five priority countries: Egypt, Libya, Jordan, Morocco and Tunisia.²⁶⁰

With regard to security, the Netherlands is a strong proponent of increasing NATO's cooperation with countries participating in the *Mediterranean Dialogue*^I and the *Istanbul Cooperation Initiative*.^{II261} In the framework of NATO, the Netherlands also took an active role after a Turkish reconnaissance plane was shot down by the Syrian armed forces in June 2012 and after a Turkish border town was shot at from inside Syria. The Dutch government responded to the Turkish request for military support to safeguard its territorial integrity by sending Patriot surface-to-air-missile systems to Turkey.²⁶² With regard to the third pillar of Dutch foreign policy, the Netherlands has always supported the liberalization of trade in specific products between the EU and Arab countries. The Free Trade Agreements between the EU and Morocco, Tunisia, Egypt and Jordan agreed upon in the late 1990s and early 2000s were therefore warmly received. In 2013 the Dutch minister of FA pleaded for reducing trade restrictions, as this should lead to more stability and prosperity in the Arab region that would also economically benefit the Netherlands.²⁶³

Arms exports to the Arab region are not uncontested in the Netherlands. Video footage from Bahrain showing security forces violently suppressing pro-democracy demonstrations with the same YPR-765 armoured vehicles previously sold by the Dutch government to Bahrain^{III} sparked a great deal of controversy in the Netherlands.²⁶⁴ Soon Dutch arms exports to the Arab region became a topic of hot debate in the parliament. In reaction to the events of the Arab Spring, the Dutch government quickly decided to place new licence applications for arms export to Bahrain, Egypt, Yemen and Tunisia "on hold", which meant that new applications would not be considered for an indeterminate time. The government stated that renewals of existing licences would not be put on hold automatically, but would be critically reviewed.²⁶⁵ Not much later, arms exports to Saudi Arabia were also put on hold by the government.²⁶⁶ In addition, European arms embargoes on Libya and Syria were adhered to.²⁶⁷ For the other Arab states the Dutch government stated that the common EU criteria would be used in the assessment of individual licence applications. The government stated that these criteria gave sufficient possibilities for guaranteeing the appropriate restraint ("*gepaste terughoudendheid*").²⁶⁸

In March 2011, earlier deliveries of arms from the Netherlands to countries such as Egypt, Bahrain, Saudi Arabia and Libya came under criticism from members of different political parties. In this debate the limited parliamentary control on the government's arms export control policy and lack of full transparency were pointed out as problems.²⁶⁹ According to the Dutch NGO *Campagne tegen Wapenhandel*, this was the first time in years that a majority seemed to exist in parliament for sharpening human rights evaluation criteria with regard to arms export control.²⁷⁰ The ministers of FA and FT acknowledged that the events in the Arab region provided "lessons learned", but

^I This forum of cooperation between NATO and seven countries of the Mediterranean (Algeria, Egypt, Israel, Jordan, Mauritania, Morocco and Tunisia) was launched in 1994. The aim of this dialogue is to create good relations and better mutual understanding and confidence throughout the Mediterranean region, promoting regional security and stability, and explaining NATO's policies and goals.

^{II} The Istanbul Cooperation Initiative was launched in 2004 and offers practical cooperation with a number of Arab countries with regard to counter-terrorism, border security, and efforts against proliferation of WMD. It also entails participation in NATO exercises and advice on defence reform. The countries participating in this initiative are Bahrain, Kuwait, Qatar and the United Arab Emirates.

^{III} Between 1994-1997 the Netherlands delivered 35 M-113 and 25 YPR armored vehicles to Bahrain.

concluded that the assessment framework using the EU's eight criteria had in general proved adequate and effective.²⁷¹

In June 2011 the government responded to the parliamentary debate by adopting new policy initiatives. It stated that it would apply criteria 2 (human rights) and 3 (internal tensions and conflicts) of the Common Position in a more stringent manner when dealing with arms export applications. The government stated, however, that this more stringent approach could only work in a *level playing field*, and that it would therefore push further for greater harmonization of the arms export policies of EU member states in general and more stringent assessment criteria in particular. It further announced that it would contribute to the harmonization of EU arms export policy by constructively participating in the review process of Common Position 2008/944. More specifically, the Dutch government announced it would play an active role in harmonizing the methods of assessment of criteria 2 (human rights) and 8 (compatibility with the recipient's technical and economic capacity). In response to the request for more opportunities for parliamentary control, the government replied that the Netherlands already reported very transparently on arms export licences, but recognized the long time-lapse between granting a licence and reporting on it. It therefore announced that it would communicate the reasoning used in evaluation of decisions on selected licence applications (new applications for export licences of complete weapons systems with a value of more than €5 million,ⁱ not destined for alliesⁱⁱ) to parliament within two weeks after the decisions were taken, so that parliament could give its feedback much faster.²⁷²

Two left-wing opposition partiesⁱⁱⁱ were not convinced by the Dutch government's response, and each party tabled a motion in parliament. One motion requested the government to stop granting export and transit licences for military equipment destined for Saudi Arabia as long as the country did not implement meaningful structural reform.²⁷³ The other motion stated that the Dutch arms export policy had not prevented regimes in the Middle East and North Africa from using European-made weapons against their own population, and therefore requested the government not to grant export licences to countries in which human rights violations were taking place and where there were no free elections.²⁷⁴ Although these motions were introduced by opposition parties, both received a majority of the votes in parliament at the end of June 2011; yet the government decided not to act upon them. In a written response in December, the government explained why it did not follow up these motions. It stated that both were out of line with the essential principle of the Common Position that *individual* transactions should be assessed. The motions were considered "too generic". The government also explained that criterion 2 was now interpreted more restrictively than before and referred to its "on hold" policy on arms export to Saudi Arabia since March 2011.²⁷⁵ The "on hold" policy vis-à-vis Saudi Arabia and Tunisia did not, however, last for long.

A first glance at table 11 showing the low value of Dutch licensed arms exports to the Arab region in 2011, compared to previous years, might suggest a more restrictive arms export policy following the Arab Spring; but a more profound analysis of the available information shows that this is not the case. First of all, the high value of 2009 was exceptional and resulted from the successful sale of Dutch ships to the Sultanate of Oman. Second, the events of the Arab Spring did not lead to more licence applications being denied for arms export to the Arab region. In 2011 only one licence

ⁱ On 22 December 2011 a motion by the same member of parliament was approved that requested the government to lower the threshold for the faster information-sharing procedure on export licences from €5 million to €2 million. 22 054

ⁱⁱ EU member states, NATO countries, Japan, Switzerland, New Zealand and Australia are considered "allies"

ⁱⁱⁱ SP and Groenlinks

application destined for an Arab country was denied by the Dutch government: namely an application for the export of accessories for military transport helicopters destined for Libya.²⁷⁶ Since this denial was motivated by referring to criterion 1 of the EU Common Position (respect for international obligations), it seems that it was the immediate result of the EU arms embargo on the country. In 2012 a similar observation can be made: only one licence application with an end user in the Arab region was denied by the Dutch government. It involved an application for the export of 90mm weapon sights to the Belgian company *CMI Defence* with the armed forces of Saudi Arabia as end-user. Interestingly, the Dutch government motivated this decision by referring to criterion 7 of Common Position 2008/944 (risk of diversion or undesired re-export).²⁷⁷ This low number of denied export licences could also be the result of informal denials and/or the government's clear communication of its "on hold" policy to the Dutch defence industry. As *Campagne tegen wapenhandel* remarks, however, the initial "on hold countries" (Bahrain, Egypt, Yemen and Tunisia) had not been major customers in recent years.²⁷⁸ The impact of these measures was therefore probably negligible. Since September 2013 arms export to Bahrain and Yemen is no longer "on hold", but is judged on a case-by-case basis. The government motivated this decision by stating that the situation in these countries has become more clear, which now allows a case-by-case assessment. The only country that is (again) subject of restrictive measures is Egypt. Following the restrictive measures imposed by the Council in August 2013, the Netherlands has suspended all its export licences to the country.²⁷⁹

The minimal impact of the Arab Spring on Dutch arms export policy caused intense political debate in parliament. When the Dutch government in December 2011 announced it would again start considering export licences destined for Egypt,²⁸⁰ the Dutch parliament reacted. A new motion was immediately introduced requesting that arms export licences not be granted for Egypt as long as that state kept using violence against its own population,²⁸¹ and this motion received a majority of parliamentary votes.²⁸² This however did not stop the government from changing its policy. In October 2012, the government announced the grant of an export licence for military equipment destined for Egypt. This decision was motivated by referring to the fact that these weapons could not be used for internal repression and human rights violations, but would respond to the country's legitimate security concerns, and to pressure from Dutch companies who felt disadvantaged vis-à-vis other European companies who were allowed by their respective home countries to export to Egypt.²⁸³ A similar parliamentary motion halting export licences for the Egypt was introduced, but this time it no longer gained a majority of votes: two parties that supported the previous motion in December 2011 changed their position.²⁸⁴ One of these parties was the social democratic party (PvdA) which at that time was negotiating to forming a new government with the liberal party (VVD) and soon afterwards joined the new government coalition. In 2012 arms export licences for components for military equipment with a value of €9,3 million were granted, and the practice of granting export licences to Egypt continued in 2013. In March 2013 the government announced it had granted an export licence for exporting communication systems and software to Egypt for integration in vessels (fast missile craft) of the Egyptian naval forces. Since these ships would be used by the naval forces for securing the maritime borders of Egypt and combating piracy, the Dutch government argued this equipment would not be used for human rights violations and internal repression. Interestingly, in this statement of motivation, the security interests of Israel, the USA and EU member states were also explicitly mentioned.²⁸⁵

We may observe that despite pressure from parliament, for example over Saudi Arabia and Egypt, successive Dutch governments did not significantly change their export policy after the Arab Spring - except for adhering to decisions made at EU level. Interestingly, we may note that Dutch arms export policy towards Egypt did not change as a result of parliamentary pressure, but only after the EU Council of Ministers of Foreign Affairs agreed to restrict arms sales to Egypt. Although its

national arms export policy did not change significantly, the Dutch government did significantly improve its information-sharing with parliament. In these communications the government has repeatedly defended its decision to export to the countries concerned by arguing that given the nature of the goods and the end-users, it did not expect a negative impact on the human rights situation, internal tensions or regional stability. The government has also often argued that the risk of diversion for these exports is considered very small or negligible.²⁸⁶

4 *Assessing the impact of the Arab Spring and ways forward*

The events of the Arab Spring that started three years ago sparked a lively debate in a number of EU Member States about the desirability of arms transfers and the export of law enforcement equipment to the Arab world. This debate was fuelled by revelations that some of the equipment used to violently repress democratic protests calling for more political, economic and social rights in the Arab region was European-made, and had in some cases been exported just months or weeks before the outbreak of violence. That European weapons were used in these countries is not surprising, given that several EU Member States are important suppliers of military equipment to the Arab region. This market accounts for a quarter of the value of licensed arms exports from the EU, making the Arab region the most important external market for European military equipment. This report has examined whether the events of the Arab Spring have had an impact on European policies for arms exports to the region, and more specifically, whether an impact can be traced in terms of the restrictiveness of national control policies and/or the level of harmonization of these policies among the various Member States.

The events of the Arab Spring have not led to substantially more restrictive policies for arms export to Arab States

In the immediate aftermath of the outbreak of the Arab Spring, most EU member states swiftly reviewed their arms export policy to the Arab region and decided to refuse, suspend, revoke, recall and/or “put on hold” licences for arms export to the region as a whole, or certain countries in the region. Despite these national measures, our analysis of the available data on European arms export decisions reveals little sign of a fundamental break in EU Member States’ arms export policies towards the Arab region. Available data from COARM and SIPRI suggest that the value of EU arms export to the region doubled between 2007 and 2012. As European defence budgets have decreased in recent years, European defence companies have increasingly looked for other markets, often supported by their own governments in this endeavour. Regional tensions are driving an arms race in the Middle East and North Africa. This has led to sharp increases in military expenditure in almost all Arab states, and companies from across the globe are competing fiercely to win lucrative defence contracts. European companies have in recent years been successful in their attempts to sell weapon systems to different Arab States. Before these companies can export their military equipment, a national export licence is required. These licenses are granted after an assessment of the eight criteria laid down in the EU’s Common Position 2008/944/CFSP, carried out by the Member State where the company is located. For some countries, additional national criteria are also included when assessing licence applications. In 2012, 25 EU Member States granted licences for arms exports with a total value of €10.1 billion to the Arab region. Although France, Italy, Germany, the United Kingdom and Spain account for 90% of these exports, almost all EU arms exporters are involved either in exporting military equipment of lower value, such as small arms and light weapons, or as participants in the production of major weapon systems where they supply components.

To examine the impact of the Arab Spring on the restrictiveness of European arms export policies, an analysis of licences that were denied is useful. Although the percentage of licences denied for Arab states increased in 2011-2012 compared to previous years, it remains low. Despite the severe tensions in the region, only 2-3% of all applications for arms export to the Arab region were denied in 2011-2012. Member States have of course also responded to the Arab Spring by suspending or freezing arms export licences to the Arab region, but our country analyses have shown that these measures were mainly of a temporary nature, and the countries hit by these measures were often not important recipient countries for the Member States who applied them. A temporary drop in arms exports to the region in the immediate aftermath of the unfolding of the Arab Spring can be observed in the customs data for the export of arms and ammunition. Despite this drop in early 2011, however, actual arms deliveries soon picked up again and by the end of 2011 even reached higher levels than in the period before the Arab Spring.

Instead of a more restrictive approach to arms exports, several Member States seem instead to have continued their relaxed arms export policy vis-à-vis the Arab region (e.g. France), or have further eroded their traditionally restrictive arms export policy for this region – e.g. the German decision to start allowing the exports of tanks to Arab states in general, and to Saudi Arabia in particular. The impact of the initial restrictive measures taken in the immediate aftermath of the unfolding of the Arab Spring was rather limited. The implementation of the EU arms embargo on Libya (from February 2011) was the only significant step that strengthened restrictions on European arms exports to the Arab region following the events of the Arab Spring. The arms embargo on Syria, adopted in May 2011, does not represent a significant policy break since that country - unlike Libya - was not an important recipient of European weapons in the years before the Arab Spring. It is still too early to assess the impact of the restrictive measures on Egypt.

The events of the Arab Spring have not significantly strengthened the process of harmonization of national arms export policies

When examining whether the events of the Arab Spring have led to more harmonization of European arms export policies, we must distinguish between the impact on the *processes* used in the arms export policies of EU member states, and on the policy *outcomes*.

Processes in arms export policy

As regards the processes, a certain impact can be observed. EU Member States often refer to the Common Position and its criteria when discussing their arms export policy. In their annual reports, the four Member States covered above - for example - frequently refer to the adoption of the Common Position. Furthermore, in information given to parliament on specific arms export licences, various governments support their reasoning by referring to an assessment of the common criteria. Yet this practice does not seem to be a result of the Arab Spring, since it was already in place for years beforehand. Regarding information exchange, we may note that the events of the Arab Spring and its impact on national arms export policies have been discussed by representatives of the national licensing offices at the bi-monthly COARM working party meetings. It is not known whether the Arab Spring stimulated greater information exchange and more harmonized policies, since these discussions are confidential and little is known about the details and their outcomes. The same goes for the bilateral consultations following denial notifications. Some information on these consultations is however made public. We know, for example, that

between 2008-2012 almost 100 consultations on arms exports to the Arab region were initiated (especially for export to Egypt, the United Arab Emirates, Libya, Algeria and Yemen); and that, when the special circumstances that require them are present, these consultations seem to be used quite regularly. Yet the outbreak of the Arab Spring did not immediately result in increased use of this consultation mechanism. An increase in the use of the mechanism for arms export to the Arab region can be observed in 2012, but there is little evidence to suggest a specific impact of the Arab Spring.

The most visible impact of the Arab Spring is related to transparency. In some countries, parliamentary pressure on the governments has resulted in more transparency. In the Netherlands, for instance, the government responded to complaints from parliament about the long time-lag between granting an export licence and reporting on it by making it standard procedure to give parliament within two weeks following each decision the reasoning behind the assessment made and decision taken on new licence applications for exports of complete weapons systems with a value of more than €2 million, not destined for allied countries. In Germany, the two major political parties agreed that their planned coalition government would increase transparency on arms export decisions, for example by releasing final decisions about export licences by the Security Council immediately after they are made. Interestingly, the Arab Spring has also influenced the legal framework in some Member States. In Belgium, the Walloon region responded to highly contested arms exports to the Arab region of weapons which later turned out were actively used for armed violence and repression purposes during the Arab Spring by including a number of provisions aimed at preventing similar incidences into their newly developed legal frameworks in 2012.

Arms export policy outcomes

Our analysis of the impact of the Arab Spring in terms of more harmonized policy outcomes also suggests mixed conclusions. The differing initial responses seen in Member States' arms export policies for the Arab region illustrate the lack of a common EU policy. One clear example of different EU arms export control policies can be seen in the fact some Member States have recently denied transit licences for arms exports to Arab states that were previously permitted by other Member States. In May 2011 for example, the Flemish government (in Belgium) refused a transit licence for French military production equipment destined for Egypt. Only in the case of arms exports to Libya and Syria did the Member States formally develop a common framework, and implement identical restrictive measures. On these countries the European Council adopted arms embargoes in 2011 following the eruption of violence in these countries. Arms embargoes are very strong instruments for implementing a common arms export policy, since they are legally binding and clearly state which arms transfers are forbidden and, in some cases, which exceptions can be made. At the same time, however, arms embargoes have a very weak base for a number of reasons.

First, the need for consensus in the EU Council makes them often difficult to establish. Despite the wish of several Member States to send Egypt a joint, strong and clear signal demanding an end to the violence, the lack of agreement on an arms embargo for Egypt led in August 2013 to a statement by the European Council – not in legally binding form – that Member States should reassess arms export licences for Egypt and suspend export licences for equipment for internal repression. The lack of time limits and definitions was not conducive to shared interpretation and implementation of this decision: Member States may interpret these restrictive measures from

their own viewpoint and decide to resume normal arms export whenever they want. Moreover, Member States are not even required to take identical decisions on similar arms exports. All they have to do is reassess their arms export licences. Second, consensus is also required to prolong or adapt existing arms embargoes, which makes them very vulnerable. This is clearly illustrated by the lack of consensus to prolong the arms embargo on Syria. Despite a strong majority of Member States in favour of prolonging the embargo, the UK and France were able to push forward their proposal to allow arms export to rebel groups. Fearing that all restrictive measures on Syria might lapse, the Member States agreed to lift the arms embargo if the other restrictive measures remained in place. Third, there seems to be no political or judicial penalty for Member States breaking an EU arms embargo. For instance, France began supplying weapons to the Libyan rebels in June 2011 despite the EU arms embargo, but was not held accountable for this.

The failure to achieve observance of the arms embargo on Libya by all EU Member States, and the lack of consensus for prolonging the arms embargo on Syria, show clearly that various EU Member States are estimating the current situation in these countries differently and are proponents of different measures. The Member States give varying weight to their considerations regarding security and stability, as well as conflict prevention and human rights. Further, they have different economic interests in the region. Our analysis of arms export policies for the Arab region in France, Germany, Belgium and the Netherlands strongly suggests that national arms export policies are fundamentally shaped by national factors rather than an agenda of European harmonization. The export control policy of the different EU Member States results from a national perspective and from the evaluation of several factors: considerations of security and stability, foreign policy objectives, ethical criteria such as human rights and conflict prevention, and economic interests.

In the case of arms export policy towards Arab states, each EU Member State studied here has its own specific characteristics. As examples: only in the Netherlands and Belgium, which are (not coincidentally) a second-tier arms exporting countries, is the importance of a European 'level playing-field' frequently stressed when discussing arms export policies. In France and Germany this aspect is not often emphasized. France is marked by a traditionally tolerant arms export policy towards Arab states, with the main objective apparently the promotion of its defence industry. Companies' efforts to secure arms deals have been actively supported by successive governments in France, as seen e.g. in the establishment of a partially state-owned marketing company aimed at securing lucrative defence contracts with the Gulf countries. Although economic interests also play a crucial role in the other Member States under study, equally strong and public support for the defence industry was not observed everywhere. German export controls are traditionally seen as restrictive. Some observers claim that the Arab Spring has led in Germany to the adoption of a 'Merkel doctrine' that undermines this restrictive approach. The new German policy is seen as showing a preference for forming security-related partnerships that include the export of military equipment to the states concerned, instead of sending German soldiers abroad in peacekeeping missions. In dealing with arms export to the Arab region geopolitical motives seem to play an important role, especially in the more powerful EU Member States. Interestingly, not all Member States are on the same line here either. While the security situation of Israel is still often emphasized in German policy decisions on arms exports to the Middle East for example, the other Member States emphasize Israel's security situation less in their decision to grant or refuse such licences. The Flemish government in Belgium has even implemented a de facto arms embargo on arms export to the armed forces of Israel. Another striking difference relates to the export to countries affected by an armed conflict of military equipment that can directly be used by actors involved in the conflict. This is – in principle – avoided by most Member States. In France, however, the government has stated that in certain situations such arms exports can be approved; it acted in accord with this policy line in Libya, and will probably soon do so in Syria as well. The result of such

divergent national foreign policies and arms export policies is that the EU's common assessment criteria are not interpreted in the same way and applied consistently by all Member States, which in turn leads to different policy outcomes on exports for certain countries; that the Member States adopt different positions in discussions on arms embargoes; and that the Member States all took different lines in the restrictive measures they implemented when confronted with the events of the Arab Spring.

Each country studied here thus responded to the Arab Spring in a different way, yet a *similar pattern* emerges when comparing them. The impacts of the Arab Spring on national arms exports policy outcomes can roughly be divided into three categories. First, almost all countries formally respected the EU arms embargoes on Libya and Syria. Up to now, this restrictive approach has continued even after the lifting of the embargoes: only a limited number of licences for arms export to these countries were granted in recent years.

Second, most EU Member States have implemented - though often temporarily - restrictive policies on arms exports to various Arab states that have witnessed large-scale opposition demonstrations and significant levels of internal violence. Sometimes this involved the automatic denial of licence applications; in other cases temporary measures were taken. The recipient countries most often hit by these measures were Algeria, Bahrain, Yemen, Egypt and Tunisia. Our analyses have shown that EU Member States have varied in their treatment of these states, both in regard to the type of measures taken, and the recipient countries to which such measures were applied. An analysis of licences denied for exports to these countries suggests that Member States were especially worried about human rights violations and internal tensions in the nation. Sometimes, the countries affected by these restrictive measures had been rather important customers for the Member States concerned before the Arab Spring, as with German or French arms exports to Egypt. In other cases the recipient countries had hardly received arms exports from the Member States concerned before 2011, as with Dutch arms exports to Egypt. Despite these restrictive measures and general concerns about the misuse of exported weapons, arms exports to these sensitive countries were not viewed as especially problematic. As soon as the violence diminished and less attention was focused on the conflict, several Member States lifted their measures and re-allowed arms export to the countries concerned. This trend can also be traced from the information on licences denied: for instance, while arms export licences to Bahrain and Yemen were frequently denied in 2011-2012, the majority of such licence applications were still being granted by EU Member States and their numbers were increasing. Licensed arms exports to Bahrain in 2012 even reached their highest level since 2003.

Third, for those Arab states where no major uprisings or demonstrations took place, such as Saudi Arabia or the United Arab Emirates, no policy break among EU Member States can be observed. Although there has been no formal agreement among Member States on arms exports to these countries, an analysis of export licences granted and denied indicates that EU Member States have been following the same arms export policy line. For arms exports to these countries, it was business as usual. Even if a licence application for these countries was denied once in a while, the overwhelming majority of proposed arms exports were approved.

To conclude, there is little evidence to suggest that the events of the Arab Spring have led to a significant deepening of harmonization of arms export control policies of the EU Member States. Only for the countries that were most affected by the Arab Spring did a formal harmonization of export policies occur in the form of an arms embargo, and this harmonized policy line quickly evaporated. For other sensitive countries of destination, the Member States implemented diverging policies. For most Arab States, however, the Member States seem to following a common

policy line of only sporadically denying arms export licences. This informally harmonized policy line cannot, however, be attributed to the Arab Spring since the Member States have simply been continuing their traditional export policy towards these countries - as if the Arab Spring never happened.

Do the harmonization of arms export policies and restrictiveness go hand in hand?

With the adoption of the EU Code of Conduct in 1998 and Common Position 2008/944/CFSP in 2008, the EU Member States stated they were “*determined to set high common standards which shall be regarded as the minimum for the management of, and restraint in, transfers of military technology and equipment*”. The goal was to reinforce cooperation and promote convergence in arms export control policies within the framework of the Common Foreign and Security Policy (CFSP), so as “*to prevent the export of military technology and equipment which might be used for internal repression or international aggression or contribute to regional instability*”. Despite the visible use of European weapons and law-enforcement equipment for internal repression, the use of these weapons in armed conflict, and the increased political and security regional instability following the events of the Arab Spring, we have observed that the EU Member States did not substantially develop harmonized arms export policies vis-à-vis the states affected by these events, but rather responded with different degrees of restraint in their arms export policies.

While the process of arms export harmonization that started in the 1990s aimed to achieve high standards for arms export control, this ambition no longer seems to be the driving force for the current harmonization process. The informal harmonization of arms export control policies that can be observed vis-à-vis the Arab States least affected by the events of Arab Spring indicates the *de facto* existence of a level playing-field within the EU, but it is a level playing-field of the lowest denominator. For these destination countries, harmonization seems to lead to less, rather than more, restrictive policies. Despite article 10 of Common Position 2008/944/CFSP - which stipulates that economic interests may be taken into account but can not affect the application of the eight common assessment criteria - economic interests seem to prevail over a restrictive interpretation of the criteria. This has resulted in a relaxed arms export policy for most Arab states despite the existence of regional tensions and the - often very active - involvement of several of these states in the security situation of their regional neighbours, for example by providing weapons to rebel groups. For the Arab States directly affected by the Arab Spring, the harmonization of arms export policies has been less successful. The European Parliament rightly observed that the eight assessment criteria of Common Position 2008/944/CFSP are often applied and interpreted with varying degrees of rigour by the different Member States.

The lack of a more uniform interpretation and implementation of the Common Position for arms exports to the most sensitive destination countries, and the lack of more restrictive arms export policies for arms exports to the other Arab states, undermine the development of a credible EU Common Foreign and Security Policy (CFSP). Greater caution is needed when considering arms exports to countries in the Arab region if the EU does not want to lose part of its credibility, and put at risk the legitimacy of its CFSP in general and its human rights policy in particular. Arms export policy is a fundamental aspect of foreign policy. The lack of harmonized arms export policies within the EU thus hinders the potential for the development of an efficient and effective EU CFSP. It is, for example, very difficult for the EU High Representative for Foreign Affairs and Security Policy to actively engage in seeking a political solution for the current instability in Egypt when the different Member States are all following their own policy lines on arms exports to the region.

During the Gulf War of 1990-1991, the rather restrictive national arms export policies of a number of EU Member States appear to have been ineffective since other Member States did export military equipment to Iraq. While the Member States clearly learned some important lessons for their arms export policies from the Gulf War of 1990-1991, the events of the Arab Spring have not led to a similar wake-up call. Instead of strengthening the impetus for more harmonized and restrictive arms export policies, the current developments seem to be heading into the opposite direction.

To reinvigorate the dynamics of harmonization, several approaches could be taken. Some observers fear that particular economic interests will continue to prevail so long as arms exports control remains a national competence of EU Member States. Yet making arms exports an EU competence with its own European licensing authority, which could work autonomously and distance itself from particular national interests, is still in the realm of political science fiction. EU Member States are not willing to fundamentally surrender the competence over their arms export policies, which are so closely intertwined with their own security, foreign policy and economic objectives, to the EU. Other paths for stimulating more harmonized arms export policies therefore need to be explored.

Steps forward to improve harmonization

Given the challenges posed by the Arab Spring for current European arms export control policies, some observers eagerly anticipated the lessons that might be garnered from these events during the review of the CFSP Common Position. However, the European Council concluded that no significant changes were needed and that the provisions and instruments of Common Position 2008/944/CFSP were still sufficient to achieve the objectives formulated in 2008. Several NGOs have criticized these conclusions and have proposed more restrictive language in the text of the Common Position, or the inclusion of additional assessment criteria. Although the Council's existing proposals will probably not suffice to achieve significantly more harmonized arms export policies and more convergence within the EU's CFSP, adapting the text of the Common Position is not necessarily essential either. What is needed first and foremost is a way of applying the existing criteria when assessing export licences that is less based on simply reacting to events, and more on the principle of precaution.

An important and often cited way of increasing the level of harmonization in national arms export policy outcomes is to improve the quality and quantity of information exchanged between Member States, since this would give them all a clearer picture of how the others are interpreting the Common Position. One of the routes already identified in the past towards further streamlining the export control policies of the different EU Member States – without actually affecting their autonomous competences – was to reform the denial consultation mechanism. The fact that COARM is currently developing an online IT platform that will enable a continuous up-to-date information exchange on denied licence applications is an encouraging development. Another idea is to give COARM an advisory voice in the event of divergent assessments of similar licence applications. In the light of the developments in the Arab Spring, it would be interesting to expand the obligatory use of the consultation mechanism to all suspended licences and/or countries that are subject, not to a legally binding arms embargo, but to other restrictive Council decisions (such as Egypt in the present case). If these measures had been implemented before the unfolding of the Arab Spring, they could have been important tools for more harmonized policy outcomes.

Other interesting improvements that have been proposed by the European Council, the European Parliament, international NGOs and scholars include – for example – improving the User's Guide by

using more accurate language that is less subject to interpretation; organizing COARM meetings more often and improving their practical value; improving the quality and timeliness of the COARM annual reports; holding an annual debate in European Parliament on the implementation of the Common Position after publication of the COARM annual report; creating a role for EU delegations in providing detailed information that could be used for export licensing risk assessments; strengthening COARM's capacity to analyse arms export controls; and complementing the Common Position with a regularly updated and publicly accessible list providing information on the extent to which exports to particular recipient countries are (or are not) in line with the eight criteria.

These different proposals should be explored and discussed in detail by COARM and its national delegations. Yet it remains a question how far the adoption of these proposed measures can suffice, in itself, to bring the divergent arms export policy lines of the EU Member States closer to each other. Experience suggests that some more fundamental changes are needed. Member States need to take significant steps to give the EU a real and comprehensive CFSP that in some situations can rise above their own national interests. A crucial role could and should be played here by the European Parliament, and by the various national parliaments, to ensure effective oversight of the application and enforcement of the Common Position's agreed standards at national and EU level. The events of the Arab Spring have painfully exposed the weaknesses of current European arms export control policies. Tackling these weaknesses will be a difficult endeavour for some Member States; but if not handled with care, the same weaknesses could in due course completely undermine the EU's CFSP and its ambitions to remain a player worth reckoning with in world politics.

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