

CONCEPT PAPER**Outreach Activities in the Field of Arms Export Controls****Lessons Learned and Way Forward**

The aim of this paper is to provide an assessment of the COARM outreach activities undertaken over the past two years, from the perspective of the implementing agency of Council Decision 2009/1012/CFSP. The paper also aims at identifying recommendations and lessons learnt to be considered by COARM Working Group in the development of further EU outreach in the field of conventional arms export controls.

1. Political and historical background

On 26 June 1997, the Council adopted the EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms, committing the EU and its Member States to take concerted action to assist other countries in preventing and combating the illicit trafficking of arms.

On 5 June 1998 the EU adopted a politically binding Code of Conduct on Arms Exports, setting common criteria to regulate the legal trade in conventional weapons. The Code was regularly updated in the following years.

On 8 December 2008, the Council adopted the legally binding Common Position 2008/944/CFSP, updating and replacing the 1998 Code of Conduct, and defining common rules governing control of exports of military technology and equipment, which lays down eight criteria for the export of conventional arms, establishes a notification and consultation mechanism for denials and includes a transparency procedure through the publication of the EU annual reports on arms exports. The Common Position aims at contributing to convergence in the field of arms export control policies and its principles and criteria have been officially subscribed to by several third countries.

Article 11 of Common Position 2008/944/CFSP states that Member States will use their best endeavours to encourage other arms exporting States to apply the criteria of that Common Position.

The European Security Strategy adopted by Heads of State and Government on 12 December 2003 enunciates ***five key challenges*** to be faced by the EU in the post-Cold War environment: ***terrorism, the proliferation of weapons of mass destruction, regional conflicts, State failure and organised crime***. The consequences of the uncontrolled circulation of conventional weapons are central to four of these five challenges. Indeed, the uncontrolled transfer of arms contributes to a worsening of terrorism and organised crime, and is a major factor in triggering and spreading conflicts, as well as in the collapse of State structures. In addition, the Strategy underlines the importance of export controls to contain proliferation.

The International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, adopted by the United Nations General Assembly on 8 December 2005, aims to enhance the effectiveness of, and complement, existing bilateral, regional and international agreements to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects.

The EU Strategy to combat illicit accumulation and trafficking of small arms and light weapons (SALW) and their ammunition, adopted by the European Council on 15 and 16 December 2005, provides that the ***EU should, at regional and international level, support the strengthening of export controls and the promotion of the criteria of the Code of Conduct on Arms Exports, subsequently replaced by Common Position 2008/944/CFSP***, by, inter alia, helping third countries to draft national legislation on this and promoting measures to improve transparency.

On 6 December 2006, the United Nations General Assembly, with the support of all Member States of the European Union, adopted Resolution 61/89, entitled 'Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms'. In December 2006 and June and December 2007, the Council adopted conclusions underlining that it is important for the EU and Member States to play an active role and cooperate with other States and regional organisations in the process within the United Nations to establish common international standards for the import, export and transfer of conventional arms, which would be a major contribution to tackling the undesirable and irresponsible proliferation of conventional arms which undermines peace, security, development and full respect for human rights.

On 17 March 2008, the Council adopted Joint Action 2008/230/CFSP on support for EU activities in order to promote the control of arms exports and the principles and criteria of the EU Code of Conduct on Arms Exports among third countries. This EU joint Action tasked four successive presidencies with the implementation of a series of outreach projects in EU neighbouring countries.

The following outreach seminars were organized:

- under the Slovenian rotating presidency¹ a two-day outreach seminar for the countries of South East Europe (Albania, Bosnia and Herzegovina, Croatia, former Yugoslav Republic of Macedonia, Montenegro and Serbia) – on 4 to 6 May 2008 in Jable Castle, Slovenia
- under the French rotating presidency a two-day outreach seminar for the North African countries (Algeria, Egypt, Libya, Morocco and Tunisia) – on 17 to 18 December 2008 in Rabat, Morocco
- under the Czech rotating presidency a two-day outreach seminar for Ukraine – on 22 to 24 April in Kiev, Ukraine, and
- a two-day outreach seminar for South East Europe – on 4 to 6 June 2009 in Tirana, Albania
- under the Swedish presidency a two-day outreach seminar for Eastern European and Caucasian partners of the European Neighbourhood Policy (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine) – on 27 to 28 October 2009 in Tbilisi, Georgia

It has to be underlined that outreach events for the North African countries and for Ukraine were the first seminars on arms export control organised at EU level for those countries.

An extended mechanism for outreach activities has been implemented through the Council Decision 2009/1012/CFSP, which was the first decision on arms export control outreach activities to be adopted after the entry into force of the Lisbon Treaty. A technical implementing entity, the German Federal Office of Economics and Export

¹ Before entering into force of the Lisbon Treaty and the establishment of the European External Action Service all COARM activities were chaired by the rotating presidency

Controls (BAFA), was designated for the implementation of the outreach activities foreseen by the above mentioned Council Decision².

Following outreach activities were implemented:

- under the Spanish rotating presidency (at that time Spain was acting under the authority of the High Representative of the Union for Foreign Affairs and Security Policy and chaired the COARM Working Party) a regional workshop for the North African countries (Algeria, Egypt, Libya, Morocco and Tunisia) – on 23 to 24 March 2010 in Algiers, Algeria
- under the COARM chairmanship of Spain a regional workshop for the Western Balkan Countries (Albania, Bosnia and Herzegovina, Croatia, former Yugoslav Republic of Macedonia, Montenegro and Serbia) – on 15 to 16 June 2010 in Sarajevo, Bosnia and Herzegovina
- under the COARM chairmanship of Belgium a regional workshop for the Eastern European and Caucasian partners of the European Neighbourhood Policy (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine) - on 17 to 18 November 2010 in Kiev, Ukraine
- under the COARM Chairmanship of the European External Action Service³ a regional workshop for the Western Balkan Countries (Albania, Bosnia and Herzegovina, Croatia, former Yugoslav Republic of Macedonia, Montenegro and Serbia) – on 4 to 5 May 2011 in Podgorica, Montenegro
- a study visit for Croatia hosted by Hungary on 6 to 10 June 2011, in Budapest
- a study visit for the former Yugoslav Republic of Macedonia and Montenegro hosted by Portugal on 10 to 14 October 2011, in Lisbon
- a study visit for Croatia, the former Yugoslav Republic of Macedonia and Montenegro hosted by Poland on 14 to 18 November 2011, in Warsaw
- under EEAS COARM-Chairmanship, a regional workshop for the Eastern European and Caucasian partners of the European Neighbourhood Policy (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine) - on 22 to 23 November 2011 in Kiev, Ukraine
- a study visit for Croatia, the former Yugoslav Republic of Macedonia and Montenegro hosted by the Czech Republic – on 16 to 20 January 2012 in Prague

² The tasks of the implementing entity are laid down in Article 2 of the Council Decision 2009/1012/CFSP and cover the support of the High Representative of the Union for Foreign Affairs and Security Policy in organising the outreach activities.

³ Since 2011 all COARM activities are chaired by the European External Action Service

It has to be emphasized that the regional workshop for the Eastern European and Caucasian partners of the European Neighbourhood Policy organized in November 2010 was the first event Belarus participated in.

Conclusion: A follow-up Council Decision is of key importance not to lose the momentum created during the last months/years. EU and beneficiary countries managed through the outreach events organized in the frame of the Council Joint Action 2008/230/CFSP and Council Decision 1012/2009 to build an effective working relationship with partner countries, and therefore a follow-up Council Decision should maintain and further develop this level of cooperation between the EU and its neighbouring countries.

2. Scope of outreach activities to date

Both the Council Joint Action 2008/230/CFSP of 17 March 2008 and the Council Decision 2009/1012/CFSP of 22 December 2009 had as overall objectives:

- promoting criteria and principles of Common Position 2008/944/CFSP (former Code of Conduct)
- assistance in drafting and implementing legislation;
- training of licensing officers;
- assistance in national and regional arms exports reports;
- support for ATT negotiating process;

The modalities for assistance provided by the two above mentioned documents were:

i) for the Council Joint Action 2008/230/CFSP

- regional workshops
- two-day workshops with individual countries

ii) for the Council Decision 2009/1012/CFSP

- regional workshops
- staff exchanges (study visits)

Looking at the content of the outreach activities organized during the last four years (2008 – 2012) all beneficiary countries were addressed with several topics like:

- The criteria of the Common Position and their implementation in the national legislation

- EU Common Military List: genesis, content, updating and implementation in the practice of EU MS
- End-use verification/assessment
- Application of arms export controls: especially related to export/re-export, brokering, transit
- Transparency in Arms Export Reports (national and regional approaches)
- Exchange of denials and consultation process
- International development in the area of arms export controls: Arms Trade Treaty
- Interaction/Dialogue with the industry

The study visits for the candidate countries (Croatia, the former Yugoslav Republic of Macedonia and Montenegro) had as main objective to offer to participants the possibility to gain a practical insight view on the implementation of the relevant provisions and procedures of the Common Position and national legislation in the day-to-day work of EU Member States. A detailed concept of the study visit can be found under COARM-DS 17/10.

3. Experience gained during the implementation of outreach activities

The aim of this section is to assess the relevance and achievement of COARM outreach activities, with a view to strengthening its effectiveness, efficiency, impact and sustainability.

Lessons learned are an important instrument for the decision-making process of the project stakeholders, including donors and beneficiary countries.

During the implementation of the outreach activities foreseen by the Council Decision 2009/1012/CFSP, but also during the 2008 Joint Action, differences in the level of preparedness of beneficiary countries belonging to the same region could be observed. Bearing this in mind, it can be argued that different approaches for countries with varying level of expertise should be developed, including through the organization of specific activities for different countries. At the same time, the already regional dimension of outreach efforts has helped develop and consolidate regional cohesion and synergies. Against this background, regional events should not be disregarded, as they continue to represent an important tool for creating synergies and sustainability of outreach activities. Another aspect of the regional cohesion is the “networking” and communication channels between EU and third countries, but also between countries belonging to the same region. In this context outreach activities are a significant discussion platform and have

an important role in developing and strengthening dialogue (between EU and third countries, but also among the countries of the same region).

As for the content of the outreach activities, one aspect that also influences the impact and effectiveness relates to the target groups. Namely it is necessary that the objectives and the target group are tuned to each other. Therefore, the mixture between political and practical oriented objectives does not always seem to achieve an optimal impact, since most of the participants invited to COARM outreach activities were more working-level experts of export controls, rather than officials dealing with the political aspects of the export control system

One aspect mentioned by all attendees and appreciated in the same time was that the COARM outreach activities by the time have become more and more focused on practical issues, due to the fact the proposed issues for discussion were increasingly related to implementation matters and to working situations, which appear in the everyday work⁴. The evaluation carried out and bilateral consultations showed that the beneficiaries had a very positive assessment of outreach activities related to practical aspects of export controls and pointed out that such practical character of activities should be kept and even more developed.

4. Requests for assistance received

During the implementation of the Council Decision 2009/1012/CFSP some of the beneficiary countries addressed by outreach activities requested individual assistance, e.g. for updating the legislation and procedures in the area of arms export controls. Such requests for assistance have been submitted informally to the implementing entity by the Western Balkan countries, but also by Armenia and Azerbaijan. Due to the tight scope of the available tools (regional workshops and study visits) such requests for individual assistance could not be met to date.

5. Scope of future activities

⁴ After each of the outreach activities assessment was made on the basis of a short questionnaire in the cases of the regional events and on the basis of a group report for the study visits.

There is no doubt that a sustainable and efficient impact of the outreach activities is based on a steady, ongoing and open dialogue with the beneficiaries. Based on this dialogue, re-adjustments of the objectives of individual activities might be advisable. A crucial factor is to find the proper balance between the importance of responding to the needs expressed by partner countries in developing activities and the necessity to focus on areas of assistance that are identified by the EU as priority ones.

Although the Council Decision 2009/1012/CFSP had a significant regional approach, the kind of assistance foreseen could not in all cases be tailored to the specific needs of the beneficiaries. Therefore it goes without saying that any future COARM outreach should provide enough flexibility concerning the specific objectives that need not be exhaustive (like CD 2009/1012/CFSP), but should rather identify an array of possible specific activities to attain more general objectives.

On the one hand, defining overall "general" objectives, instead of focusing on more specific ones those related to precise topics, would provide the possibility to tailor the activities on the identified needs of the beneficiaries; adjustments of the specific activities could occur as a necessity for a successful implementation of the project. This flexibility would also provide the possibility to meet individual requests for assistance (e.g. Armenia, Azerbaijan, Western Balkan countries).

On the other hand, long term objectives should be identified in the definition of the next COARM outreach. Sustainability of future outreach activities could also be improved through a "train-the trainer" approach, due to the fact that the beneficiary countries will have at some point to establish indigenous capacity for trainings in this area.

Future COARM outreach activities should also be adaptable to the evolving needs and requests for assistance identified by beneficiary countries, and should allow meeting them.

In order to assess the results and achievements of the outreach activities that have been implemented in the frame of the Council Decision 2009/1012/CFSP, an ex post evaluation took place in case of the regional seminars and study visits. Both EU experts and representatives of the beneficiary countries were asked after each workshop to provide feed-back on possible future topics.

The following elements have been identified as being of particular importance and interest for the participants:

- Arms export controls, especially brokering controls, including licensing, registration of brokers and ways to verify the authenticity of authorizations
- Arms export control related to re-exports
- Verification/assessment of end-user, consignee
- Risk assessment
- SALW transfers and related legislation - licensing, assessment of criteria, transfers, transit and tracing, as well as EU regulation on SALW
- Best practices, presentation and information related to assessment process of export to sensitive destinations
- Tracing financial transactions and identifying if some listed persons are behind the shipment/transactions – practical insights with respect to assessment process
- Documentation needed and additional assurances
- Restrictive measures – implementation at national level and best practices
- Information exchange among EU MS

6. Modalities of assistance

As far as possible forms of assistance provided by the future outreach activities are concerned, a diversification of these have to be taken into consideration to increase the impact of outreach activities.

The inter-action between pre-identified objectives of the Council Decision, and between the target groups and their actual needs, influences the selection of proper form of assistance. Improved results could be achieved through sufficient flexibility in terms of forms of assistance is provided.

Therefore, the following possible forms/types of assistance could be considered:

- Regional events
- Study visits
- Bilateral events (e.g. EU MS and beneficiary country (BC) or EU MS – EEAS – BC)

- Events for parliamentarians and industry
- Individual assistance: legal review (assessing the arms export control legislation and procedures), consultations, assistance visits by EU experts to the beneficiary countries, etc.
- Interlacing COARM outreach on the military pillar of export control with the other cooperation programmes financed by the EU in the realm of dual-use goods export controls.

6. Range of countries

Another important element that should be taken into consideration when deciding about possible forms for assistance is the geographic scope of the future Council Decision (e.g. Armenia – bilateral assistance).

During the last years the following countries were the recipients of COARM outreach activities:

- Western Balkan countries (Albania, Bosnia and Herzegovina, Croatia, former Yugoslav Republic of Macedonia, Montenegro and Serbia)
- Eastern European and Caucasian partners of the European Neighbourhood Policy (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine)
- North African countries (Algeria, Egypt, Libya, Morocco and Tunisia)

The Western Balkan countries represent the major beneficiary of the outreach events during the last years, but also the Eastern European and Caucasian partners of the European Neighbourhood Policy took advantage of the assistance provided.

On the other hand the region of the North African countries has been outreached only with singular events, which makes it very difficult to create a sustainable impact. Additionally the “Arab Spring 2011” and the current political situation of the region pose the question whether this region should (not) be addressed through the new Council Decision

7. Interaction with other EU financed programmes and donors

Coordination with other EU financed programmes and donors should be improved in order to exchange views and coordinate activities, but also to maximise the resources and avoid overlaps. This applies in particular to EU-funded outreach events related to export controls on dual-use goods, which are financed under a different budget line (Instrument for Stability) than the COARM outreach (CFSP budget).

Increased cooperation with other donors active in the regions covered by EU outreach should also be sought. As an example, beneficiary countries have already benefitted from activities organized by the US EXBS. Possible participation of EXBS official to COARM outreach activities⁵, and vice versa, should be further explored and streamlined..

Another aspect concerns the possibility to co-organize outreach events with other relevant international actors.

8. Financial perspective

The current budget of the Council Decision 2009/1012/CFSP foresees for each activity (regional workshops and study visits) its own budget – within the general financial framework – broken down into different headings (e.g. travel, per diem, interpretation costs etc.). The budget of each activity can not be modified; neither leftovers sums from the budget of other activities can be used. Considering this, but also due to the fact that the budget headings are quite inflexible, the result is a situation of over-spending or under-spending. The only flexibility according to the financial contract lies in a transfer between headings of eligible costs, up to 10% of the value of the heading to which the transfer is made;

There is no doubt that the principle of flexibility has to be built into the future budget in order to ease the planning and increase the efficiency of the funds. Any unused sums could for example be reallocated for other activities or could be planned for implementing new activities (e.g. after assessing the individual needs of the beneficiary countries). The evaluation of a project is an ongoing process and takes place at each stage of implementation. The outreach activities organized so far showed that coordination and evaluation meetings in Brussels (e.g. between EEAS and implementing entity) have to be arranged. These kinds of activities are an important element of the project monitoring and should also be covered by the new Council Decision' budget.

⁵ It should be noted that EXBS already participated as observers in several COARM outreach regional seminars over the past years.

9. Organisational structure

Under Council Decision 2009/1012/CFSP for the first time a technical implementing entity (BAFA) was designated for the entire implementation period (previously rotating presidencies were in charge of the implementation on a six-month basis). BAFA's tasks were to organize the outreach events foreseen, under the main responsibility of the HR and her services (in practice EEAS/COARM Chair). It has to be mentioned that no further details were made with respect to the specificity of the tasks and burden sharing between the COARM Chair and the technical implementing entity.

For future COARM outreach activities, the following lessons learned should be considered in order to better define the specific role of the implementing agency and the EEAS/COARM Chair:

- outreach activities revealed the fact that the roles of the acting parties (EEAS/COARM Chair and technical implementing entity) have to be sufficiently precisely described and defined in order to ensure an efficient work-flow in the preparatory and as well as in the implementing stage of the project.
- definition of tasks and responsibilities of the two implementing actors (the COARM Chair and the technical implementing entity) should be predetermined in order to optimize the workflow.
- the EU Delegations to the beneficiary countries should play a more active role and also offer support in the preparatory phase (importance of earlier identification of country hosting the event, venues, and timing), in order to ensure that venues chosen are appropriate, providing the necessary logistic support and meeting necessary representation standards).