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## FRENCH ADAPTATION STRATEGIES FOR ARMS EXPORT CONTROLS SINCE THE 1990S

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## ➤ ABSTRACT

This *Paris Paper* looks at how successive French governments have progressively adapted arms export controls to the new conditions of the international arms market since the 1990s. The author identifies four significant trends that impacted French arms export controls: growing industry requests for state support on arms exports, perceived as legitimate by political actors; the overall neo-liberal economic paradigm; governmental and industry cooperation at the European level; and civil society demands for integration of human rights issues in export control decision-making and greater transparency. To answer these sometimes contradictory economic and political streams, French governments progressively developed two strategies to adapt arms export controls: simplification and harmonisation. Whereas in the post-Cold war period, simplification and harmonisation were conducted separately, with step-by-step simplification of domestic export control processes and negotiations for harmonisation at the European level; from 2006-2007 onwards the two strategies became interwoven. European harmonisation was a vector used to simplify the French national export control procedures. This led to a legislative overhaul of the export control system in 2011, which was fully implemented in mid-2014. A significant consequence of these reforms was increased reliance on industry self-regulation for export controls.

## ➤ RÉSUMÉ

Ce *Paris Paper* étudie comment les gouvernements français successifs ont adapté progressivement le contrôle des exportations d'armement aux nouvelles conditions du marché international de l'armement depuis les années 1990. L'auteur identifie quatre tendances cruciales qui ont affecté le contrôle des exportations d'armement en France. Il s'agit des demandes croissantes de l'industrie pour un meilleur soutien étatique des ventes d'armes, demandes perçues comme légitime par les acteurs politiques; du paradigme économique néo-libéral; de la coopération gouvernementale et industrielle au niveau européen; et des demandes de la société civiles concernant enjeux des droits de l'homme ainsi que davantage de transparence. Afin de répondre à ces enjeux économiques et politiques parfois contradictoires, les gouvernements français ont progressivement mis en œuvre deux stratégies pour adapter les contrôles des exportations: la simplification et l'harmonisation. Dans la période post-guerre froide, la simplification et l'harmonisation ont été conduit séparément, avec une simplification pas à pas des procédures de contrôle nationales et des négociations menées au niveau européen. A partir de 2006-2007, ces deux stratégies se sont entremêlées. L'harmonisation au niveau européen a été un vecteur de simplification pour les procédures de contrôle des exportations en France. Ceci a amené à une rénovation législative du système de contrôle des exportations en 2011, entièrement mise en œuvre depuis le milieu de l'année 2014. Une des conséquences significatives de ces réformes a été un recours croissant à l'autorégulation de la part des industriels en matière de contrôle des exportations d'armement.

➤ **TABLE OF CONTENTS**

<b>List of acronyms .....</b>	<b>9</b>
<b>Introduction.....</b>	<b>10</b>
<b>I. Simplification and harmonisation in the post-Cold war era : running with the hares and hunting with the hounds? (1990-2006) .....</b>	<b>14</b>
<i>A. Legitimate support of the industry vs. illegitimate intervention in the economy: simplification strategy as industry support.....</i>	<i>14</i>
1. Convergence between industry requests and a changed political discourse on arms exports	14
2. The export control reforms of the 1990s: simplification step-by-step .....	17
<i>B. A Code of conduct to reconcile the arms industry and NGOs: the harmonisation strategy.....</i>	<i>20</i>
1. Along the streams: Political, industry and NGO pressure for harmonized export controls.....	21
2. France joins the British initiative for the Code: a supportive state? .....	22
3. Against a strong commitment: France as a blocking state.....	23
<b>II. All roads lead to Brussels: the overlap of the two export control adaptation strategies (2006-) 25</b>	
<i>A. Convergence of the streams in the early Sarkozy Presidency .....</i>	<i>25</i>
1. Continued legitimate perception of the industry’s requests for government support, reinforced by a political will to increase arms exports .....	25
2. Strengthening political ambition to reduce the burden of state intervention in the economy and red tape .....	27
3. European Commission initiatives for the European defence market .....	27
4. NGOs overlook the ICT directive? .....	28
<i>B. Trading common reinforced criteria for common simplified export rules: the French negotiating position in the EU on arms exports issues .....</i>	<i>30</i>
1. The French government first rejects the Common Position and the ICT directive .....	30
2. The reversal in favour of the ICT directive: harmonisation serving simplification.....	31
3. The reversal in favour of the Common Position: protection against European jurisprudence	33

<i>C. Simplification of the arms export control regime thanks to the opportunity of the ICT directive.</i>	<i>35</i>
1. Continuation of the simplification strategy at the start of the Sarkozy Presidency .....	35
2. The 2011 reform: how the two strategies to adapt export controls to a changed arms market met .....	36
3. A simplification for the industry ... or for the administration? .....	39
<b>Conclusion</b> .....	<b>41</b>
<b>References</b> .....	<b>43</b>



## LIST OF ACRONYMS

- **AP** : Agrément préalable (Prior Agreement)
- **AEMG** : Autorisation d'exportation de matériel de guerre (Export Authorisation)
- **APD** : Attestation de passage en douane (Customs Certificate)
- **ATT** : Arms Trade Treaty
- **CIEEMG** : Commission interministérielle pour l'étude des exportations de matériel de guerre (Interministerial Commission for the Study of War Materials Exports)
- **COARM** : Committee Armament
- **DGA** : Direction générale de l'armement (General Directorate for Armaments)
- **ICT directive** : Intra-Community Transfers directive (2009/43/CE)
- **LoI** : Letter of Intent
- **PFUE** : Présidence française de l'Union Européenne (French European Union Presidency)
- **RGPP** : Révision générale des politiques publiques (General Revision of Public Policies)
- **SGDSN** : Secrétariat général de la défense et de la sécurité nationale (Secretary General for National Defence and Security)

## INTRODUCTION<sup>1</sup>

*“Weapons of war are not like other products traded in the international marketplace, because their end use concerns the most sensitive issue in international relations - the physical security of regimes”* (Kemp, 1994:150). Due to their military and lethal capacities, exports of defence products are subject to specific controls by governments. This paper puts the evolution of the French arms export system in perspective, by studying how changes in the global defence economy in general, and in the arms markets in particular, have led successive French governments to adapt the arms export control system. This paper shows that a combination of external economic and political factors, as well as domestic factors shaped by relationships among bureaucratic, political, industry and civil society actors, led both to a simplification of domestic export controls and a reluctant harmonisation of export controls at the EU level. In particular, since the end of the Cold War, French arms exports have been impacted by global geopolitical and economic trends, which can be divided into four “streams”<sup>2</sup>: industry requests for state export support; the influence of economic neoliberalism; European interdependency in the field of arms production; non-governmental organizations’ (NGOs) activism.

The first stream is a consequence of increased economic pressure on the defence industry to export. This led the industry to call for more state support for arms exports. Such industry requests are perceived as legitimate in the French political context. Indeed, the end of the Cold War led to decreased defence budgets in the Western world, which, combined with a low demand in the rest of the world, resulted in the contraction of the global arms trade (Quéau, 2013:3). Outside Europe, new producers of weapons appeared (South Korea, Turkey, etc.) and started to sell their own weapons, joining the international competition. On the demand side, buyer states also changed behaviour. They raised their demands in terms of offsets and technology transfers, such as in Latin America or Asia (Masson, 2012:112) or the Gulf region (Soubrier, 2014). The end of the Cold war also meant that the United States began to sell arms in former Soviet-allied countries, such as former European People’s Republic. Conversely, Russia today sells weapons in all of Latin America. Because the United States and Russia today supply countries globally, France has lost several markets.<sup>3</sup> The end of the USA-USSR rivalry further deprived France from one of its major sales arguments, the fact that French weapons came with no political conditions attached (Gautier, 2009:475). In addition, large quantities of cheap Soviet-era equipment from Central and Eastern European countries arrived on the market (Erickson, 2013:9). In a nutshell, whereas the international arms market used to be a “*sellers’ market*” during the Cold War (Matthews and Maharani, 2009:43), it has become a “*buyers’ market*” (Biztinger, 2009:5), putting the defence industry in a difficult position. Therefore, French defence firms requested increased state intervention in favour of arms exports. Such requests for “more state” echoed a long-standing perception among French authorities who view arms exports as a means to

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2 I borrow the term “streams” from political scientist John W. Kingdon’s *Agendas, Alternatives and Public Policies* (2003), as this word best captures the way major trends permeating arms export control may evolve and interact.

3 Interview, Politician, 2 July 2013; Interview, Defence Ministry, 28 Aug. 2013.

secure domestic sources of arms procurement, thus a protection of French strategic autonomy (Kolodziej, 1987).<sup>4</sup>

The second stream is the pre-eminence of a paradigm against the legitimacy of state intervention in the economy, a movement that runs opposite to the first stream. The 1980s saw the progressive pre-eminence and appropriation by various national authorities of the neoliberal paradigm, including in the defence sector. Hoeffler (2011) has shown how neoliberalism permeated arms production.<sup>5</sup> Major consequences were the decreased legitimacy of the state to intervene in the defence sector, the increased cost-efficiency approach in state procurement and industry strategies. Overall in the Western world, the state withdrew from arms production activities while going on the quest for budgetary balance (Bellais, 2004:53-55). France was no exception, and arms production underwent systemic changes. It went from an “administered regulation” system to a quasi-competitive one (Hébert, 2006: 9-10). Firms developed civilian production, which decreased their dependency on the state. Companies consolidated their activities into subsidiaries to make industrial alliances easier, or to be able to sell divisions. The state withdrew from production and partially privatized many companies. The government became more attentive to cost-efficiency in acquisition processes. Defence companies, when becoming private firms, adopted “*corporate goals of being profitable, attractive to financiers, and satisfying to shareholders*” (Lundmark, 2011:41-42). Consequently, the new corporate governance in the defence industry, as opposed to former public-run entities, favoured competitiveness, profitability and cost-efficiency. Furthermore, European integration, in building the common market, decreased legitimacy for the state to intervene in the economy and increased pressure for governments to balance budgets. These pressures for “less state” undermined state legitimacy to intervene in the economy and generated deregulatory pressures, including in the defence sector (Hébert, 1995:170). This is in contradiction to previously mentioned industry requests for state intervention in the international arms market.

Another important evolution was deepened European defence cooperation, identified as the third “stream”. This stemmed both from a political will to create the “Europe of defence” and as a response to the abovementioned new economic circumstances. The European move towards bigger, transnational firms can be first explained as a reaction to a concentration move in the United States (Hagelin, 1998:111). More generally, defence budget cuts in Europe combined with the rising development costs of weapons pressured procurement budgets and “*have been a major incentive towards consolidation given the necessity to reach a critical size to sustain these substantial financial investments*” (Meijer, 2010:65). Major defence firms were thus concentrated and internationalized, through mergers and acquisitions in Europe.<sup>6</sup> This was reflected by the emergence of major European-wide companies (EADS, BAe Systems, Thales, MBDA, etc.). As a result, arms-producing European states and arms industries became more interdependent, due to the increased European dimension of the industry and the joint development of weapons programmes (Ingels, 2011). Overall, “*the current state of the defence market in Europe has been described as a ‘European spaghetti bowl’*”.

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4 Although this notion of autonomic strategy thanks to arms export can today be questioned (Fleurant & Quéau, 2014)

5 Hoeffler defines liberalization as : “a process through which the state organized a change of its own role and which is characterized by the introduction of the reinforcement of market logics [...]. These market logics are translated by the usage of market as a norm carrying legitimacy and/or as a principle of organization, such as opening competition or neo-managerial efficiency” (Hoeffler, 2011:55)

6 This varies across sectors : while Europeanization of the industry is mostly true for the aerospace and electronics sectors, the naval and land sector did not go through a similar process (Masson, 2003:10; Masson, 2006:1-2).

*This label refers to the post-consolidation ownership structure of the European armaments industry, with innumerable cross-shareholdings, segments and programme-specific joint ventures, consortia and other legal arrangements” (Meijer, 2010:68). Consequently, the framework within which French firms formulate their strategies became more European (Hébert 1995:180-181). The third stream can be summarized as follows: the development of common arms programmes and the integration of the industry on a European stage mean that European cooperation is crucial to both the French government and defence industry.*

The end of the Cold War also brought about ideological changes, creating a fourth stream that impacted French arms exports. The onset of a “peace dividend” mindset undermined the legitimacy the arms sector had during the East-West confrontation, highlighting that defence expenditures could be dedicated to welfare spending. In addition, several arms-related scandals were uncovered. The two Gulf wars, between Iran and Iraq (1980-1988) and then Western countries against Iraq (1990-1991), added to the public agenda the fact that weapons had been sold to parties at war and that weapons could be used against their original producer. As Bromley, Cooper and Holtom (2012:1035) explain, the post-Cold War period “*saw the introduction of human security principles into the field of arms export controls. This reflects a similar, though more pronounced, trend in the field of conventional arms control, which has been heavily influenced by the campaigning efforts of NGOs and sympathetic states*”. In France, this resulted in increased activism by various antennas of British NGOs in France (Amnesty International and Oxfam-Agir Ici), as well as French-based NGOs (CCFD-Terre solidaire and Centre de Documentation et de Recherche sur la Paix et les Conflits, later Observatoire des armements). These were created at the beginning of the 1990s, or by then started to address arms export control issues and joined international campaigns aimed at controlling arms exports. This brought new, albeit still weak, actors into the arms export decision-making environment.

In light of these four streams impacting arms exports, this paper looks at the question of *how were French export controls adapted to the new challenges of the post-Cold War international arms trade?* The following pages will demonstrate that, facing these evolving and sometimes contradictory circumstances, French authorities took up two strategies to address control issues: simplification and harmonisation. Simplification of arms export controls reconciles the first and second streams, that is, both the state’s arms export support and the overall demand for economic deregulation. Simplification of control procedures provides support for arms exports without market interference. Here, deregulation to alleviate the arms export regime contributes to facilitating industry access to the international arms market. Harmonisation of export controls in Europe reconciles both the third and fourth stream. The harmonisation strategy covers French contribution to the development of common European arms export control rules.<sup>7</sup> As state and industry across Europe became more interdependent, interest grew for common arms exports controls norms. For example, industries needed export authorisations to transfer defence products from Germany to Spain, although such transfers would be in the framework of a joint weapons programme. Another issue is the existence of rival European weapons programmes. For instance, the Rafale and Eurofighter combat aircraft are exported according to differing criteria, due to the variations in the arms exports policies of France

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<sup>7</sup> “Harmonisation” here is not understood as a result, which in European integration studies would mean that EU member states indeed implement similar rules or norms in the same way. Harmonisation is rather seen in this paper as the ongoing process of developing common rules – be they applied in the same manner or not by the different states.

and the UK. The industry need for common standards also answered NGO calls for common and strengthened European export criteria (see Bromley, 2011).

The adaptation on French arms export controls along these two strategies will be detailed chronologically. The first section traces changes in French arms export controls from 1990 until 2006. It highlights steps taken by the government to simplify export controls and looks at the French position on the European Code of Conduct on Arms Exports. The second section shows that from 2006 onwards the various streams converge, leading up to the joining of simplification and harmonisation strategies. Negotiations for a European Common Position occurred at the same time as negotiations for harmonized export processes for intra-EU circulation of military goods. The two negotiations became interlinked from the French perspective. The focus will then be on the subsequent 2011 reform of the export control regime, which results from both simplification and harmonisation strategies.

The data presented here comes from official documentation (reports, parliamentary debates, legislative texts, French government and EU official documents and records). This paper relies strongly on defence and security studies, media articles and reports, NGO documentation, and stakeholder interviews.

## I. SIMPLIFICATION AND HARMONISATION IN THE POST-COLD WAR ERA : RUNNING WITH THE HARES AND HUNTING WITH THE HOUNDS? (1990-2006)

The simplification strategy remained marginal during the 1990 – 2006 period: the reforms undertaken did not genuinely change the export control regime. The harmonisation strategy is exemplified by the adoption of a European Code of Conduct on Arms exports. Those two strategies were not contradictory and enabled successive French governments to progressively engage in the adaptation of the national export control regime to new conditions in the international arms trade.

### A. LEGITIMATE SUPPORT OF THE INDUSTRY VS. ILLEGITIMATE INTERVENTION IN THE ECONOMY: SIMPLIFICATION STRATEGY AS INDUSTRY SUPPORT

Following the end of the Cold War, the political discourse on arms exports focused increasingly on economic arguments. Simplification measures were taken to meet arms industry demands for state support to export, demands thus legitimated by the political discourse. However, political action remained limited in the 1990s.

#### 1. Convergence between industry requests and a changed political discourse on arms exports

Changed conditions in the arms trade in the late 1980s and early 1990s led defence companies to voice requests for state support. Such demands appeared legitimate in the French context where a large majority of the political class considered exports as necessary to sustain the arms industry, which in turn was perceived as a cornerstone for the country's independent foreign policy.<sup>8</sup>

In 1991, Hugues de l'Estoile, former vice-President of international affairs of Dassault Aviation and former director for the international division of the Direction générale de l'armement (DGA)<sup>9</sup>, published a column in *Le Monde*, where he called for mobilization to promote arms sales abroad (de L'Estoile, 1991).<sup>10</sup> Faced with declining domestic demand and fierce competition for foreign markets, three of the main defence industry organizations were created at the beginning of the 1990s, as if answering the wake-up call of de L'Estoile. The Comité Richelieu was created in 1989. It originally aimed at improving the access of small and medium-sized enterprises (SMEs) to the markets generated by offset agreements with the sale of US weapon systems to France, but was reoriented six months after its founding as a means to improve access to the French armaments market.<sup>11</sup>

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8 See KOŁODZIEJ Edward E. (1987), *Making and Marketing Arms. The French Experience and Its Implications for the International System*. This major work demonstrates how arms production was perceived from the onset of the Fifth Republic and Charles de Gaulle's Presidency as the means to provide the French government with an autonomous foreign policy. Kolodziej describes how this perception permeated the entire political spectrum and administration, and was not at all questioned by de Gaulle's various successors.

9 Previously called *Délégation ministérielle pour l'armement*, and later on *Délégation générale pour l'armement*: the arms research, procurement and sales department within the Defence ministry.

10 "Tous, chacun à son niveau, et dans son domaine de compétence, pourraient alors s'atteler avec fierté à [l]a promotion, [d'une politique industrielle internationale de l'armement français] au lieu de souffrir de sa nécessité." (de L'Estoile, 1991)"

11 The Comité Richelieu is today open to all high-tech small and medium-sized businesses.

Second, the Council of Defence Industries (Conseil des industries de défense, CIDEF) was founded in 1990 by existing professional organizations of the French arms industry. Its mission was to voice concerns common to the industry and defend its interests. The French Naval Industry Group (Groupement des industries de construction et activités navales, GICAN) was created shortly after by industrials of the naval sector in cooperation with the Defence ministry.<sup>12</sup> This shows the need felt by the French defence industry to regroup and better promote their common interests.

These organizations requested better state support, including simplified export control procedures. In 1995, the Aerospace industry organization, GIFAS, protested against the government's "*modest*" involvement in favour of arms exports and hoped for support similar to that which the US industry benefits from, and these demands were made on the grounds that without exports the industry would have to cut jobs (Neu, 1995). In 2001, CIDEF's white paper called for a "*strong and coordinated support for arms exports from all political, financial, diplomatic and military authorities, as well as a legislative framework that does not vainly contribute to rein in the industry's potential*"<sup>13</sup> (Neu, 2001). A year later, the leader of CIDEF Philippe Camus (then EADS co-CEO) considered that state involvement was not always up to the task (Assemblée Nationale, 2002). Despite international arms transfers growing again during the 2000s (Quéau, 2013), CIDEF's 2004 white paper suggested that focus should be on better governmental coordination for export promotion, and "*adaptation of rules to the reality of the market and the competition.*" "*It would notably be desirable to change the way control and authorisation procedures are implemented, as the delays and the level of detail have become vainly penalizing*"<sup>14</sup> (CIDEF, 2004: 8-9). The industry's demands for state help was thus a steady trend in the 1990 – 2006 period.

Such requests were legitimate, being perceived across the French political spectrum as an instrument and aim of foreign policy since the 1960s (Kolodziej, 1987). There has nonetheless been an evolution in the justification of arms exports. After the Cold War, the rationalization of arms exports in political discourse changed towards economic reasons, bringing political and industrial discourses closer, thus further legitimizing industry demands. Whereas during the Cold War economic and strategic justifications of arms sales went hand in hand, mostly economic arguments survived the fall of the Berlin Wall. Clearly, economic issues existed before the end of the Cold War, as evidenced by press articles at the time (Stehlin, 1967; *Le Monde*, 3 June 1967; Le Gall, 1969; Faust, 1969; Roy, 1971). As early as 1966, Defence minister Pierre Messmer declared, "*the prosperity of our aeronautic industry depends essentially on its exports*" (Mithois, 1970). However, these economic arguments used to be overshadowed by foreign policy justifications: France helped countries in need which, like France, did not want to depend on any of the two superpowers. "*Successive presidents under the Fifth Republic, starting with de Gaulle, projected the image of France as conciliator and mediator, if not arbiter, of the East-West conflict and as moderator of the North-South dialogue*" (Kolodziej, 1987:59). Defence

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12 The French aerospace industries association (Groupement des industries françaises aéronautiques et spatiales, GIFAS) goes back to 1908, but it was originally not specific to military aeronautics, as it also brought together from the start the civilian aircraft industry. The French Land Defence Manufacturers Association (Groupement des Industries françaises de défense terrestre, GICAT) was formed in 1979, which also followed a time of transformation in the land sector in France (separation of state and industrial functions within the land arsenals, and transformation of the powder department of the ministry of defence into a national firm).

13 "Dans ces conditions, ils réclament pour les exportations un soutien « fort et coordonné » des autorités politiques, financières, diplomatiques et militaires, en même temps qu'un cadre réglementaire « qui ne contribue pas à brider inutilement le potentiel de l'industrie »" (Neu, 2001).

14 "Il serait notamment souhaitable de revoir la façon dont sont appliquées les procédures de contrôle et d'autorisation des exportations, dont la durée et le niveau de détail sont devenus inutilement pénalisants" (CIDEF, 2004 :9).

minister Michel Debré, explained in an interview that countries turned to France to get away from dependence on the USSR or the US. There was no reason to deny them French assistance, provided that their policy abided by the United Nations Charter (*Combat*, 1 Jan. 1971). A decade later, Defence minister Charles Hernu “justified the French government’s actions on the same economic, military, and political ground advanced by his predecessors: ‘I am always surprised when people talk about arms sales in [a] reproachful tone... Without those arms sales, how would I equip the French Army?’” To which he added: “they also represent an important aspect of our foreign policy... I have a clear conscience when I sell arms to a country if that prevents it from buying from one of the two superpowers” (Kolodziej, 1987:130). Similarly, Foreign Trade minister Michel Jobert said in 1981 “when France sells weapons to a country, she does not deprive it of its freedom” (Dussauge & Cornu, 1998:84). Prime Minister Pierre Mauroy said, the same year: “a profitable arms industry is essential. [...] France cannot prohibit itself from exporting war material. For herself of course. For her partners also, as she enables them to increase their independence by avoiding to have to turn towards one of the two super-powers” (Dussauge & Cornu, 1998:85). With the end of the Cold War, French authorities abandoned this foreign policy argument. The economic justification remained, reinforced by the difficulties of the defence industry.

The discourse sustaining arms transfers thus shifted to more economic arguments (Cooper, 2011:149; Dussauge & Cornu, 1998:85). Such a change was quite noticeable. The difference between the 1972 and 1994 Defence White Paper’s statements on arms trade is compelling in this regard. The 1972 White Paper justifies arms sales as a way to provide non-aligned countries with a means to preserve their independence faced with the US and the USSR. It states: “It is difficult to avoid the duty of responding to the requests for arms of certain countries, [who are] concerned for their defence and who desire to assure it freely without having to resort to the dominant powers of the two blocs. Not to respond to these requests would accentuate the hegemony of the big powers and would also preclude all moderating actions attached to our exporting position” (Livre Blanc 1972, Vol.1:54, in Kolodziej, 1987: 59). In contrast, the 1994 White Paper justifies arms sales as an economic solution to preserve the arms industry (Premier ministre 1994:129; Hebert, 2006:37). It stresses an economic analysis of arms exports, not a strategic one – although arms exports are still mentioned as a tool of foreign policy. Arms exports are described as an important contribution to the balance of trade, viewed as the “source of self-financing of the national industry” and as a means to “guarantee the upkeep of industrial and technical skills, and necessary to lessen the burden on the national defence budget”<sup>15</sup> (Premier ministre, 1994:129). Therefore, the economic rationale became a main argument in favour of arms sales. As arms exports were increasingly seen as an economic tool and described as a major way to sustain an arms industry whose purpose is to ensure national independence, industrial demands for state help matched the overall political discourse regarding arms transfers. Thus, state support for arms exports remained legitimate.

While the industrial and political discourse converged, the shift towards the neoliberal economic paradigm was underway. This phenomenon has been described elsewhere for the economic and

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15 “Ces chiffres rendent compte incomplètement des bénéfices que la nation a retirés de l’exportation. En effet, constituant la principale source d’autofinancement de l’industrie nationale et garantissant le maintien des compétences techniques et industrielles, l’exportation nous a permis de rendre compatibles les exigences de notre politique d’indépendance dans le domaine de l’armement avec les limitations liées à la taille de notre pays et de nos forces armées, et à la part des ressources budgétaires que la nation pouvait consacrer à son équipement de défense” (Premier ministre, 1994:129).



political spheres (Jobert, 1994; Chevallier, 2008), and more specifically for the defence sector (Hébert 1995, 2006; Hoeffler, 2011). A consequence of the neoliberal economic paradigm and related policies was to delegitimize state intervention in the economy. A 1992 report published by the Saint-Simon Foundation<sup>16</sup> illustrates the tension between the perceived need for better state support of arms exports and the perceived necessity of a more distant relationship between the state and the arms industry. The report highlights that the state must withdraw from the defence industry's capital but nonetheless calls for a strengthening of the state's role regarding arms export policy (Schwartzbrod, 1992).

## *2. The export control reforms of the 1990s: simplification step-by-step*

In response to this tension between legitimate state support for arms exports and illegitimate state intervention in the economy, actors of the defence sector started to consider means of industry support without resorting to intervention tools. French authorities progressively simplified the arms export control, between 1990 and 2006.

### *The arms export control system in the early 1990s*

The French arms export control regime was put in place just before the Second World War. The main legislative texts framing arms export controls were a legislative-decree from 18 April 1939 and a decree (n°55-965) from 16 July 1955. These two texts established a procedure where, in order to export military and assimilated goods,<sup>17</sup> authorised arms producers had to go through four authorizing stages. This step-by-step system has been progressively simplified, starting in the 1990s.

In the immediate post-Cold War period, these four stages consist in three levels of prior agreements ("agrément préalable", AP) and one export authorisation ("autorisation d'exportation de matériel de guerre", AEMG). Companies needed prior agreements in order to be able to:

1. Prospect for new clients (market research);
2. Negotiate with potential clients, i.e. discuss with the client and negotiate a contract;
3. Sell their products (i.e., sign the contract).

APs are granted by an inter-ministerial commission for the study of war materials exports ("Commission interministérielle pour l'étude des exportations de matériel de guerre", CIEEMG). The CIEEMG is composed of various ministries, the most important of which are Defence, Foreign Affairs, and Economy and Finance, all of which participate in the decision and have a veto right. The CIEEMG meets formally once a month to examine the prior agreement requests.

The formal monthly CIEEMG meeting is chaired by the Secretary General for National Defence and Security (SGDSN),<sup>18</sup> who acts as delegate of the Prime Minister. The CIEEMG only gives a

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16 An influential think tank active between 1982 and 1999 that aimed at reconciling the Left and market-oriented thinking (Riche, 1999).

17 See note n°3 for a definition provided in Idiart & Aubin (2007).

18 Formerly called Secretary General for National Defence until 2008.

recommendation; legally the decision rests with the Prime minister. If the CIEEMG members cannot agree, the Prime Minister's office decides directly.

Once a company has signed the contract, it must reapproach the administration a fourth time for an authorisation (AEMG), which will allow the goods to go through the Customs services. The AEMG requests paperwork, the most important of which is the end-user certificate whereby the recipient commits not to re-export the equipment. The company's request is circulated among all voting ministries and will go up to the CIEEMG meeting only in the event of a disagreement. After the AEMG is given, the company needs to provide custom services with a "customs certificate" (*attestation de passage en douane, APD*). This final process, before actual delivery, occurs as follows: "*the actual export is finally checked during the customs clearance process. The Customs Services verify that the goods to be exported correspond to the AEMG and to the description (designations, quantities, values) given by the exporter in the Export Certificate (Attestation de passage en Douane, APD). They will, if necessary, perform a physical inspection of the goods. If the goods conform to the AEMG, the Customs officials will complete and countersign the AEMG and the APD, and finally authorise shipping the goods abroad*" (Idiart and Delaboudinière 2007:141). The APD is later used by the administration to establish arms export statistics.

#### *Trends in favour of simplification proposals*

The government contemplated alleviating the rules of arms export controls as early as June 1991 (Chesnais & Serfati 1992:184). At the time, defence firms complained that each and every one of their initiatives was scrutinized by the CIEEMG (Senges, 1991). In 1993, the Commissariat Général du Plan (CGP), the institution in charge of defining France's economic planning from the outset of World War II, published a report entitled "the future of defence-related industry". Noting the contraction of the arms trade, and increased American competition, the CGP report advised for simplification measures to improve the "*slowness of governmental decision-making*" over prospecting and sales authorisations (CGP, 1993:56). The authors viewed French arms exports controls as one of the world's strictest (CGP, 1993: 92) and advocated reorganization in order to "*galvanize*" exports (CGP, 1993:93). In Mar. 1996, Bruno Durieux, former minister of Foreign trade and personal representative of the Defence minister for arms exports (*Libération*, 10 Oct. 1996), wrote a report on arms exports for the Prime minister. B. Durieux considered that in the meantime, export controls were time consuming, and recommended that procedures should be "*eased and simplified*" (Durieux, 1996:29). Likewise, in 2000, three members of the Assemblée Nationale's Defence Committee<sup>19</sup> published a report suggesting that APs for negotiations could be granted for several countries at a time (Assemblée Nationale, 2000:56). Another recommendation in the 2000 report was to set up differentiated procedures according to the type of equipment or recipient country, so that the most sensitive cases would be processed separately, so that more routine exports authorisations be granted more quickly (Assemblée Nationale, 2000:57). Thus, in the view of many stakeholders in the post-Cold War period, the export control regime was too rigorous and time-consuming for the new conditions of the international arms market.

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<sup>19</sup> The three MPs were Jean-Claude Sandrier (Communist deputy of the Cher, a constituency where there is a long history of land forces equipment manufacturing), Christian Martin (Right-wing deputy) and Alain Veyret (Socialist party)

*Progressive simplification measures*

As a result, simplification measures have been used throughout the 1990s and early 2000s to facilitate arms exports. The Defence minister explained in 1998 that the government was studying the termination of the AP for market research (Assemblée Nationale, 1998). Accordingly, the government removed the first level of APs in December 1999. This level of authorisation did not permit the firm to provide product specifications or price, as these actions were considered as falling under the negotiation phase – which requires a second level of AP. According to the 2000 parliamentary report, reactions to this termination varied. Some companies considered that the AP for market research entailed extended delays their competitors did not have to endure. However, the report also underlines that some companies were indifferent to this removal. For the Observatoire des transferts d'armement (2000), companies almost systematically ignored this procedure, and compliance hardly verifiable. It was even considered as a “*non-event*” by an actor of the arms export control system at the time.<sup>20</sup> The changed legislation nonetheless maintained an AP for the communication of “sensitive information” (Assemblée Nationale, 2000:53-54). Therefore, as of 2000, two levels of APs subsisted (negotiation and sale)<sup>21</sup>, in addition to the AEMG and the APD. The AP for sales operations was also extended from a one-year validity period to two years (Ministère de la Défense, 2005:31).

Another simplification took place, with the implementation of quicker processes for specific cases. The 1996 Durieux report mentioned the existence of a “simplified procedure”, for transfers to NATO countries, for orders worth only a small amount, or for spare parts. B. Durieux also mentions an “accelerated procedure” which gathers the approval of CIEEMG participants by a written procedure instead of a formal meeting. This accelerated procedure instantly delivers an AP for sales. The Durieux report (1996:83) further mentions an “emergency notification procedure”. This means the company receives the information that its AP has been granted the day after the CIEEMG meeting, and not a few weeks later because the files need to go through a specific bureaucratic process.<sup>22</sup> Other simplifications occurred later on, such as the continual procedure (“procédure continue”),<sup>23</sup> the grouped procedure (“procédure regroupée”),<sup>24</sup> and the accelerated procedure (“procédure accélérée”).<sup>25</sup>

Another simplification related to European cooperation: APs and AEMGs specifically for European common programmes were introduced in 2002 – 2004 in the French system. In 1998, the six major European arms producers (United Kingdom, Germany, Italy, Sweden, Spain and France) signed a Letter of Intent (LoI), strengthened through the 2000 Farnborough Framework. This led to the

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20 Interview, SGDSN, 18 June 2013.

21 “An AP must be requested by an exporter for two distinct phases in the process of forming a contract with its foreign customer: (i) at the ‘negotiation phase’, which covers all commercial operations preliminary to a contract signature including initialization; and (ii) at the ‘signature phase’ which includes all final adjustments (end p.139) and the signing of the contract.” (Idiart & Delaboudinière, 2007:140)

22 Indeed, APs require a specific bureaucratic stamp, further lengthening the process (Interview, Defence Ministry, 19 March 2013)

23 It relates to a list of countries updated by the CIEEMG, small orders and non-sensitive equipment

24 It is designed for temporary exports or off-the-shelf orders. It allows companies to request at the same time their AP and AEMG. All requests are then processed at the same time (Ministère de la Défense, 2001:31).

25 In the event of proven emergencies.

implementation of “global project licenses”. The aim was to simplify trade among European firms within the framework of common weapons programmes. The global project licenses allow companies to carry out transfers for a joint programme with no limits of amount or volume. Such authorisations are valid for the whole duration of the programme. In France, these became “global prior agreements” (agrément préalable global, APG) and “global export authorisations” (autorisation globale d’exportation de matériel de guerre, AGEMG) in 2004. They were introduced specifically for arms programmes in cooperation with other European states at first, but were later extended to other types of export operations (non sensitive transfers to particular destinations, transfers related to repairs and maintenance) (Ministère de la Défense, 2012b:35). These global procedures were also extended to cover exports to countries other than Lol (Idiart & Delaboudinière, 2007:140). However, the use of global licenses remained limited (Fromion, 2008), as it could take years for firms to set up those licenses due to lack of agreement among governments.<sup>26</sup>

One measure taken in these years appears to contradict this simplification strategy. It is the change of bureaucratic responsibilities for export controls within the ministry of Defence. The department in charge of export control processes used to be the Direction for International Relations within the Delegation for Armaments, but this fell under the Direction for Strategic Affairs in 2000. However, this decision was later cancelled in 2008, when the newly-named Direction for International Development recovered the responsibility for the export control process in the ministry of Defence.<sup>27</sup>

To combine legitimate industry requests for state support in the field of arms exports with weakening legitimacy for the state to intervene in the overall economy, French authorities developed tools to facilitate arms exports coherent with the overall neoliberal framework –altogether leading to a simplification strategy. However, this strategy remained circumscribed in this first period. Meanwhile, other transformations continued to influence the arms industry and the government: the stream of European interdependency in arms production, and the stream of stronger civil society demands for arms transfers restraint and transparency, leading to a reluctant harmonisation strategy.

## ***B. A CODE OF CONDUCT TO RECONCILE THE ARMS INDUSTRY AND NGOS: THE HARMONISATION STRATEGY***

The development of European arms production cooperation and the building of a “*Europe de la défense*” have been widely studied elsewhere (Hébert, 2001; Gautier, 1999; Irondelle & Venesson, 2002). The focus will be here on European discussions on arms export controls and the building-up of NGO pressure during the 1990s. Bromley (2011:39) finds three major motives for European convergence in the field of arms export controls. The first is “*the consolidation and internationalization of the European defence industry during the 1990s provided a strong economic rationale for better coordinated export policies*”. The second and third motives exposed by Bromley match what is described here as the “fourth stream”: “*a growing emphasis on conflict prevention*

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<sup>26</sup> Interview, Industry, 24 Apr. 2013.

<sup>27</sup> For further details, see L. Béraud-Sudreau (2014), “Un changement politisé dans la politique de défense. Le cas des ventes d’armes”, *Gouvernement et Action Publique*, Vol. 3, No. 3, pp.79-103

after the end of the cold war led to calls for more ethical foreign policies, including on arms exports” combined with “revelations concerning the role of European states in the arming of Iraq in the run-up to the 1991 Gulf War provided a strong impetus for better controls on arms exports.” Similarly for Bauer (2004: 32), in the 1990s, both governments and NGOs started to look at “how national policies need to, and can be adapted to effectively control a decreasingly state-structured industry.”

### 1. Along the streams: Political, industry and NGO pressure for harmonized export controls

Public knowledge of arms transfers to Iran and Iraq in the 1980s and the 1990-1991 Gulf War prompted a political movement to tackle the issue of arms export controls. Davis (2002:83-113) provides an account of how negotiations among European governments led to a Code of Conduct on Arms Exports in 1998. In Mar. 1991, the Political Committee<sup>28</sup> launched a group of experts to work on the issue of arms export controls. This was later transformed into the Committee Armament (COARM). At the time, the aim was to “compare national positions and investigate the possibility of further action” (Davis, 2002:83). It appears that France and the UK wanted to contain the talks to a “comparison of national lists of controlled military goods” (Davis, 2002:83). The outcome of these discussions was a declaration annexed to the conclusions of the Luxembourg European Council on 28-29 June 1991. “Alarmed by the stockpiling of convention weapons in certain regions of the world”, and “to prevent situations of instability recurring in entire regions as a result of such over-armament”, the European Council expressed its ambitions to act upon the issue and “by comparing national policies on arms exports, identified a number of common criteria on which these policies are based” (European Union Council, 1991).

The seven “Luxembourg criteria” would form the basis for the forthcoming Code of Conduct. At the 1992 Lisbon summit, an eighth criterion was added, to assess sales also based on economic resources of the client state (European Union Council, 1992). However, Davis highlights that France insisted that COARM’s mandate would not infringe on national prerogatives on arms export control decisions, (Davis, 2002:90).

Prior to the Amsterdam conference in June 1997, more and more political and industrial actors thus advocated for a common EU understanding on arms export controls. On one hand, defence firms argued for the facilitated circulation of defence goods within the EU combined with common policies for exports outside the EU (Davis, 2002:92-93). On the other, the European Parliament passed three resolutions (Sep. 1992, Mar. 1994, Jan. 1995) calling for greater controls of arms exports (Davis, 2002:94-95). However, without consensus, the Amsterdam Treaty did not address the topic.

In the meantime, civil society was also active. Stavrianakis (2010) studied strategies and discourses of UK NGOs in the field of arms export controls. Her work shows that some British NGOs turned to conventional arms trade issues at the beginning of the 1990s. Saferworld’s action in this area began because of the Gulf war, Amnesty International and Oxfam started dealing with arms trade in the

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28 Today called the Political and Security Committee. (PSC), the Political Committee gathered “the heads of the political departments of the national foreign ministries that [...] meet in the capital of the Member State holding the Council Presidency” It had a role of “preparatory body for foreign policy issues” (Juncos & Reynolds, 2007).

mid-1990s, and BASIC<sup>29</sup> was established in 1987. *Campaign Against the Arms Trade* had been interested in conventional arms transfers since 1974. The International Action Network on Small Arms (IANSA) turned to this issue later, in 1998 (Stavrianakis, 2010:6). These organizations started advocating for tougher regulations in the early 1990s.

NGOs asked for European member states to take into account human rights issues when assessing arms export requests. They also asked for increased transparency. *“NGOs’ role in the establishment of the EU Code of Conduct [...] is a key moment in the history of NGO work on the arms trade”* (Stavrianakis 2010:75). These advocacy campaigns were taken up in France either by local antennas of UK NGOs (Amnesty International France, and Agir Ici who later entered the Oxfam coalition) or French based organizations. In 1997 Saferworld launched a UK Code Working Group to study a European Union Code of Conduct (Davis, 2002:99). The Labour Party, at that time in the opposition, took up their ideas. *“The Labour Party, in its 1997 election manifesto, publicly committed itself to refusing arms sales to destinations where they might be used for internal repression or international aggression and to supporting an EU code of conduct on arms sales”* (Stavrianakis, 2010:75).

Therefore, as of late 1997, industrial, political and civil society actors were in favour of a European coordinated action on arms export control. However, although they agreed on the overall idea, they still needed to agree on its implementation: *“the contentious question related to its contents and goal”* (Bauer, 2004:33). This resulted in the drafting of a European Union Code of Conduct on Arms Exports (European Union Council, 1998), hereafter ‘the Code’, in June 1998. The Code establishes eight criteria states must take into account when assessing arms export authorisations. The Code also sets up a notification and consultation mechanism, whereby governments exchange information on export authorisations they denied. *“If another member state intends to grant an export licence for an ‘essentially identical transaction’, it must first consult the EU member state(s) that previously denied such an export to explain the reasoning for its intention to grant a licence. Where an export licence has already been granted, the consulted government(s) must be informed and the undercut justified”* (Bauer & Bromley, 2004: 4)

Negotiations leading up to the 1998 Code of conduct show that in the French perspective, developing common rules of arms exports (harmonisation strategy) was a way to answer NGOs demands for ethics and transparency, while creating a facilitated environment for industry activities in Europe. Harmonisation however was not entirely chosen by French authorities, but partly imposed by interactions with its European partners.

## *2. France joins the British initiative for the Code: a supportive state?*

During 1997, NGOs secured support for a strong Code of conduct from the Belgian, German, Irish, Dutch and Swedish governments. In the UK, the opposition Labour party, running for elections, also endorsed the idea. At the same time, 300 parliamentarians from eight member states, and a coalition of 600 European NGOs campaigned for a tough Code (Davis, 2002:99-100).

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<sup>29</sup> BASIC is however more focused on nuclear issues.

NGO campaigning in the UK eventually encountered a change in political conditions when the Labour Party came to power in June 1997.<sup>30</sup> When Foreign Secretary Robin Cook set the British government in motion for an EU Code of Conduct, *“an early initiative [...] was to engage the French government”* (Davis, 2002:100). It seems that the objective of the British government was *“to agree on an Anglo-French draft, which could then be circulated to other EU partners”* (Davis, 2002:101). Indeed, political change in the UK occurred at the same time as in France, when a socialist majority was elected at the Assemblée Nationale in May 1997. As a French politician explained in an interview, both teams arriving in power had spent a long time in the opposition and were eager to differentiate themselves from their predecessors. The new decision-makers, both French and British, wanted to *“avoid embarrassing situations where they would have to condemn the use of military equipment for which they had authorised the sale”*,<sup>31</sup> as it had occurred in the past. Consequently, the French government was willing to respond favourably to Robin Cook’s initiative, and in Aug. 1997 Prime Minister Lionel Jospin declared: *“I see only benefits in aligning ourselves with the proposition of my friend the British Prime Minister aiming at moralizing the arms trade”* (Jospin, 1997).<sup>32</sup> The British Presidency of the EU in the first semester of 1998 gave a new impetus to discussions on export control harmonisation. *The UK’s national guidelines became the basis for a Franco-British- EU initiative to work toward a strengthening of common arms export controls”* (Stavrianakis, 2010:76). So far, France appears as a “supportive state”,<sup>33</sup> which can be seen as a reaction to the strengthened civil society stream impacting arms export controls.

### 3. Against a strong commitment: France as a blocking state

Yet, from the UK perspective, *“the overall impression was that, despite public utterances of support, in private the French were not very helpful”* (Davis, 2002:101). A first joint UK-France draft was sent to European member states on 23 Jan. 1998, but during subsequent negotiations, France consistently impeded the formation of a consensus, aiming at a weak code. In the lead-up to the June 1998 Cardiff EU Council, France threatened to jeopardize the talks if a strong Code was agreed upon (Davis, 2002:101).

In fact, for the French, the Code’s purpose was to regulate competition among European arms exporters,<sup>34</sup> by preventing undercutting behaviour among European arms exporters.<sup>35</sup> Moreover, the

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30 The trend in favour of greater transparency in arms exports in the UK was further reinforced by the “Arms to Iraq” scandal and the following Scott inquiry, which revealed dysfunctions in the arms export control system (Davis, 2002:147-150; Bauer, 2004:33).

31 Interview, French politician, 20 Mar. 2013.

32 “Je ne vois donc que des avantages à m’associer aux propositions de mon ami le premier Ministre britannique visant à moraliser le commerce des armes. Le gouvernement examinera avec intérêt la possibilité d’adopter, à l’échelle européenne comme au niveau des Nations unies, un “code de bonne conduite” interdisant la vente d’armement à des fins de répression interne ou d’agression externe.” (Jospin, 1997).

33 “A lead state has a strong commitment to effective international action on the issue, moves the negotiation process forward by proposing its own negotiating formula as the basis for an agreement, and attempts to win the support of other state actors. A supporting state speaks in favor of a lead state’s proposal in negotiations. As the price for its going along with an agreement, a swing state demands a concession to its interests but not one that would significantly weaken the regime. A veto or blocking state either opposes a proposed environmental regime outright or tries to weaken it to the point that it cannot be effective” (Chasek, Downie & Brown, 2010:54).

34 Interview, French Politician, 20 Mar. 2013.

French government considered that arms export controls were mainly a Franco-British issue, given that France and the UK were among the most important European arms producers and exporters at the time and that they had similar arms export control processes and policies.<sup>36</sup> French authorities traditionally perceived the UK as their main competitor on the international arms market,<sup>37</sup> which clarifies why the government was on board with the British proposition, thus appearing as a supportive state. Furthermore, the “no undercutting” objective overruled the other goals of the Code because, as the French authorities understood it, the human rights criteria were already in place. The Defence minister explained at the Assemblée Nationale that the principles establishing the Code “were not completely new for France”<sup>38</sup> (Assemblée Nationale, 1998). The 2000 parliamentary report also highlights that “if France could join the British initiative so quickly, it is indeed because [it] already implemented criteria close to those of the Code, even identical ones, although [the French criteria] could have been formulated less explicitly”<sup>39</sup> (Assemblée Nationale, 2000:86).

Another reason for such reluctance can be found within French bureaucracy. In the eyes of civil servants in charge of arms export controls, cooperation among the 6 Lol countries was more efficient than cooperation with 15 EU countries, not all of which are arms producers and suppliers. They also felt this extended cooperation could lead to blockages.<sup>40</sup> This helps explain the unwillingness of the French during the Code negotiations.

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Between 1990 and 2006, the simplification and harmonisation strategies were thus developed along separated, but not opposite lines, to adapt arms export controls to the new international arms market. In a second period (2006 onwards), the French government was confronted with a convergence of streams impacting arms exports. As a result the harmonisation and simplification strategy became increasingly intertwined and strengthened.

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35 Undercuts are understood as the fact that “a denial of an export licence to one supplier would be undermined by a supplier in another EU member state agreeing to provide a denied party with essentially the same item” (Bauer and Bromley, 2004:2).

36 Interview, French politician, 20 Mar. 2013.

37 Interview, Defence Ministry, 23 Mar. 2013.

38 “[Le Ministre de la Défense] a souligné que les principes de contrôle qui étaient à la base de ce dispositif ne représentaient pas une innovation complète pour la France” (Assemblée Nationale, 1998).

39 “On le voit, la comparaison entre les critères traditionnellement appliqués par la France, présentés en première partie, et le Code de conduite indique assez clairement que, si la France a pu rejoindre aussi rapidement l’initiative britannique, c’est bien parce qu’elle appliquait déjà des critères très proches du Code de conduite, voire les mêmes critères, même s’ils pouvaient être alors formulés moins explicitement.” (Sandrier, 2000:86)

40 Interviews, SGDSN, 18 June 2013 and 18 July 2013 ; Interview, Industry, 1 July 2013.



## II. ALL ROADS LEAD TO BRUSSELS: THE OVERLAP OF THE TWO EXPORT CONTROL ADAPTATION STRATEGIES (2006-)

Due to the convergence of the streams impacting arms exports since the mid-2000s, French authorities responded by tying together the simplification and harmonisation strategies, with measures to revise arms export controls including both simplification and harmonisation elements. This was visible in European negotiations where France reluctantly accepted a binding Common Position on arms export controls in the bargain for a directive simplifying intra-European circulation of military goods (hereafter ICT directive – intra-community transfers). The overlap of both simplification and harmonisation is even more noticeable in the transposition process of the ICT directive into French law: the directive was used to simplify the entire export control regime.

### A. CONVERGENCE OF THE STREAMS IN THE EARLY SARKOZY PRESIDENCY

The streams accelerated shortly before and during Nicolas Sarkozy's presidential mandate (May 2007 – May 2012). French authorities tried to react to external evolutions but also contributed to the acceleration and confluence of these global trends.

#### 1. Continued legitimate perception of the industry's requests for government support, reinforced by a political will to increase arms exports

*Re-intensification of the competition: Industry continues to ask for help*

The first stream refers to industry demands for state help, a request that French authorities perceive as legitimate.

In the light of the continuous reduction in domestic procurement budgets and increased competition on the international arms market, French industry continued to request state help. In 2006 Marwan Lahoud, then CEO of MBDA, stated that “*a renewed partnership*” between state and industry was necessary to confront new challenges of the defence economy. He underlined that the industry felt a “*strong need for inter-ministerial coordination regarding support*”, in the same way as existing inter-ministerial coordination on controls<sup>41</sup> (Lahoud, 2006). In July 2007, CIDEF's white paper asked the government for more dynamic support in arms exports (*L'Usine Nouvelle*, July 10, 2007). In 2009, the President of GICAT highlighted that French bureaucracy remained slow to deliver arms export authorisations (Ruello, 2009). Demands from the industry for simplification were further legitimated by stories that circulate within the DGA, about firms who chose to set their production lines outside

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41 “Un partenariat renouvelé Etat-Industrie est nécessaire pour faire face aux nouveaux défis déjà mentionnés.” “Les industriels ressentent un besoin fort de coordination interministérielle concernant le soutien, à l'image d'ailleurs de ce qui existe pour le contrôle” (Lahoud, 2006).

of France (in Tunisia or Switzerland) in order to avoid and not suffer economically from French arms export control procedures and their economic consequences.<sup>42</sup>

Industry demands were also oriented for better European arms export controls coordination. Being increasingly interdependent on the European stage, defence companies also requested an alleviation of intra-European export controls. The Fondation Concorde<sup>43</sup> published conference minutes where two industry representatives call for a change of the “*philosophy*” of the arms export control system, at the EU level (Fondation Concorde, 2005). Their suggestions foretell the contents of the ICT Directive. Similarly, in 2006, GICAT wrote to then Defence minister Michèle Alliot-Marie to remind her of priorities in terms of arms exports, and requested a reduction of administrative procedures for intra-EU exchanges of military goods (Ruello, 2006b).

#### *Renewed political will to support arms exports*

Industry demands were met with reinvigorated political will to support arms exports. This political will supportive of arms export returned to the governmental agenda shortly before N. Sarkozy entered office. In Jan. 2006, Michèle Alliot-Marie mandated MP Yves Fromion to write a report on French arms export. His mission was to examine, in consultation with the industry, the adequacy between the political support for arms exports and the situation of the international arms market (Alliot-Marie, 2006). The Fromion report, published in July 2006, was a tipping point for increased government activity on arms exports issues and for the launch of support measures (including simplification) during President Sarkozy’s time in office. The report was well received by the industry, notably recommendations in favour of a simplification of export controls (Ruello, Les Echos, 2006a).

Soon after the Fromion report’s publication, two working groups were set up. A first one within the DGA, studied active support measures the report suggested. The other was set up at the SGDSN, dealing with the report’s simplification measures (Ruello, 2006b).

The Sarkozy government took up this work and implemented a significant part of the report’s suggestions. In Oct. 2007, Defence Minister Hervé Morin told the Senate that an inter-ministerial Commission had been set up, and that a strategic plan for defence exports support would soon be published.<sup>44</sup> Morin also announced that an “*adaptation*” of export control procedures was under way (Sénat, 2007).

The Defence ministry’s plan to boost defence exports was launched on Dec. 13, 2007. It comprised two sections, one aiming at the simplification of controls, the other aiming at stimulating export support mechanisms (Ministère de la Défense, 2008a). Aside from the inter-ministerial Commission at the Prime Minister’s office and the strategic plan already mentioned, the strategy also included a “war room” at the President’s office, highlighting high-level interest in the issue (Ministère de la défense, 2008a). These all aimed at achieving better state support for the promotion of arms sales

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42 Interview, Defence Ministry, 23 Mar. 2013.

43 A think tank focused on economic and industrial issues.

44 The Commission interministérielle pour les exportations de défense et de sécurité (CIEDES), which became the Commission interministérielle d’appui aux contrats internationaux (CIACI); and the “Plan national stratégique des exportations de défense”, PNMED.

(Davesne et Lecompte-Boinet, 2011). As MP Yves Fromion noted in 2010, since 2006 – 2007, arms exports had clearly been given centre-stage (Fromion, 2010:9).

The renewed political will in favour of arms exports was further exemplified in the reports to Parliament during the Sarkozy Presidency. Whereas previous reports began by describing the export control system, the 2007 report to Parliament strongly stresses in the first place why state support for arms exports is vital. Strikingly for the 2007 (published Oct. 2008) and 2008 (published Aug. 2009) figures, economic rationale are placed before strategic motives (Ministère de la Défense 2008b:18-19; 2009:18-19). This hierarchy is however mitigated in the subsequent 2009 report (Ministère de la Défense, 2010), where arms exports as a tool of foreign policy and a guarantee of autonomy are in second position after the necessity to sustain the defence industrial base, and jobs listed as the third motive (Ministère de la Défense, 2010:16).

Therefore, industry requests for help were still prominent, and matched by a strong political will to increase arms exports.

## *2. Strengthening political ambition to reduce the burden of state intervention in the economy and red tape*

The second stream covers the neoliberal framework and the decreased legitimacy of the state to intervene in the economy in general. This stream was also reinforced in the time period under consideration.

One of N. Sarkozy's campaign pledges was state modernisation and improvement of bureaucratic efficiency. This was reflected through the "Révision générale des politiques publiques" (RGPP). The RGPP was a tool aimed at re-assessing the efficiency and performance of governmental activities (Gouvernement français, 2013). The goal of RGPP was to modernise the state and find savings in public spending. The director of the department in charge of state modernisation explained that the RGPP's objective was to simplify state organization and processes (Migeon, 2010:986). As Bezes (2012:232) shows, administrative reform was designed as a demonstration of N. Sarkozy's ability to reform the state. This author also indicates that public discourse on the RGPP came from "new public management", stressing cost reduction, efficiency, productivity, all normative requirements under the neoliberal paradigm. Other examples of the political impulse for administrative simplification are the appointment of a Commissioner for simplification in Nov. 2010, and the adoption of a law in Feb. 2012 entitled "simplification of law and reduction of administrative processes".<sup>45</sup>

## *3. European Commission initiatives for the European defence market*

The third stream, which refers to increased European interdependency in the field of arms production, also accelerated. In 2006, the Commission launched two initiatives, prepared since

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45 Loi n°2012-387 du 22 mars 2012 relative à la simplification du droit et à l'allègement des démarches administratives, publiée au Journal Officiel du 23 mars 2012, [http://www.assemblee-nationale.fr/13/dossiers/simplification\\_droit\\_allegements\\_demarches\\_administratives.asp](http://www.assemblee-nationale.fr/13/dossiers/simplification_droit_allegements_demarches_administratives.asp).

1997<sup>46</sup> and 2003.<sup>47</sup> The Commission had been trying to develop its competences over defence industry matters (Masson, 2008:23). The first of the two 2006 initiatives is an interpretative communication “*on the application of Article 296 of the Treaty in the field of defence procurement*”<sup>48</sup>.

The Commission’s second 2006 initiative was a public consultation, “*on the intra-community circulation of defence related products*”. The consultation was “*intended to lay the groundwork for a Community initiative facilitating the movement of defence related products within the Community*”.<sup>49</sup> The Commission judged that the disparity of arms exports control regulations among EU member states hindered the emergence of a European arms market. After receiving feedback on these two initiatives, the Commission presented in Dec. 2007 the “defence package”. It aimed at reinforcing the European defence market and the European defence industrial base (Masson, 2008). The defence package included two directives and a communication. The first dealt with the regulation of defence and security public markets, an attempt to apply European public procurement regulations to defence procurement processes.<sup>50</sup> The second, (to become the ICT directive) dealt with intra-EU transfers of defence products.<sup>51</sup> It was designed to facilitate circulation of military goods among EU member states. More specifically it aimed at harmonizing arms export control regulations for intra-European arms transfers. The main objective put forward by the Commission was the benefits for industrial competitiveness by the reduction of costs, delays and administrative paperwork, due to 27 different systems of export authorisation (Masson, 2008:36).

#### 4. NGOs overlook the ICT directive?

The evolution of the fourth stream, which covers civil society activism, was more mitigated. The activity of NGOs advocating for more stringent arms export controls was high on the international and European agenda, but, as a result, French NGOs were more preoccupied with those campaigns than with the domestic level.

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46 European Commission, Communication from the Commission, Implementing European Union Strategy on Defence-Related Industries, December 4, 1997, [http://ec.europa.eu/internal\\_market/publicprocurement/docs/defence/com97-583-final\\_en.pdf](http://ec.europa.eu/internal_market/publicprocurement/docs/defence/com97-583-final_en.pdf).

47 European Commission, Communication from the Commission, European Defence – Industrial and market Issues, Towards an EU Defence Equipment Policy, March 11, 2003, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2003:0113:FIN:en:PDF>.

48 Article 296 (previously Article 223 under the Rome Treaty, and later on Article 346 under the Lisbon Treaty) stipulates that European Union treaties do not force member states to provide information regarding their national security, and cannot prevent them from making decisions regarding their arms production and trade. As a result, states regularly used this article to protect their national market and industry. Developments on this issue have been addressed elsewhere at length (Hoeffler, 2011).

49 European Commission, Enterprise and Industry, “Call for comments : consultation paper on the intra-community circulation of defence-related products”, [http://ec.europa.eu/enterprise/newsroom/cf/itemdetail.cfm?item\\_id=32&lang=en&tpa\\_id=152&title=Call-for-comments%3A-consultation-paper-on-the-intra-%0D%0Acommunity-circulation-of-defence-related-products](http://ec.europa.eu/enterprise/newsroom/cf/itemdetail.cfm?item_id=32&lang=en&tpa_id=152&title=Call-for-comments%3A-consultation-paper-on-the-intra-%0D%0Acommunity-circulation-of-defence-related-products).

50 Official Journal of the European Union, Directive 2008/81/EC of the European Parliament and of the Council of 13 July 2009, on the coordination of procedures for the award of certain works, contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:216:0076:0136:en:PDF>.

51 Official Journal of the European Union, Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009, simplifying transfers and conditions of transfers of defence-related products within the Community, of <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:146:0001:0036:en:PDF>.

On the international level, NGOs aimed for an international Arms Trade Treaty (ATT). In Oct. 2003 Amnesty, Oxfam, and IANSA launched the Control Arms campaign. These NGOs were encouraged by successful campaigning to prevent production, sale and use of landmines and cluster munitions (Bromley, Cooper, Holtom, 2012:1039). As Amnesty International and Oxfam turned their focus towards the ATT, French NGOs followed. This was all the more true as French NGOs active on this topic are mostly subsidiaries of transnational NGOs. Out of the three most active French NGOs on conventional arms transfers, one is French-based, CCFD-Terre Solidaire. This organization joined the ATT campaign in 2003, also within the Control Arms coalition, most visibly led by Amnesty, Oxfam and IANSA.<sup>52</sup>

On the European level, the aim was to transform the 1998 Code of conduct into a binding instrument. According to Stavrianiakis (2010:77), UK NGOs *“were pivotal in the push towards the transformation of the Code into a EU Common Position, conducting much of the research that went into the elaboration of the Criteria and advocating for its adoption, which was achieved in December 2008”*. NGOs were indeed active on this issue from 2004 onwards (Depauw, 2010:3). As the Code of Conduct approached its tenth anniversary in 2008, combined with a growing civil society debate on the ATT, pressure for more stringent controls was also renewed in the late 2000s, on the European level.

However, due to limited resources, individuals in charge of export control issues within French NGOs had to dedicate their resources to ATT and Common Position advocacy campaigns. Depauw (2013:15-16) refers to the distraction of NGOs from ICT negotiations due to the concentration of means on the ATT and Common Position. NGOs therefore could not focus on the arms export policy reforms occurring meanwhile in France. Despite some lobbying to influence the debates in Parliament,<sup>53</sup> one campaigner admitted: *“I had to neglect France in those days because of the ATT”*.<sup>54</sup> Therefore, on the domestic level, the “stream” of civil society did not accelerate similarly to the first three streams impacting arms export controls.

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We shall now turn to parallel negotiations of the Common Position and the “defence package” to determine how, in response to these accelerated and converging trends, French strategies to simplify and harmonize arms export controls were tied together.

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52 CCFD-Terre Solidaire, Contrôle du commerce des armes, [http://ccfd-terresolidaire.org/ewb\\_pages/m/motcle-controle\\_des\\_armes.php](http://ccfd-terresolidaire.org/ewb_pages/m/motcle-controle_des_armes.php).

53 Interview, NGO, June 2013.

54 Interview, NGO, Apr. 2013.

## *B. TRADING COMMON REINFORCED CRITERIA FOR COMMON SIMPLIFIED EXPORT RULES: THE FRENCH NEGOTIATING POSITION IN THE EU ON ARMS EXPORTS ISSUES*

To summarize, around the time of N. Sarkozy's coming into office, streams impacting arms exports met in Brussels: European interdependency led to, and was reinforced by, increased activism of the Commission on defence issues; NGOs were looking to transform the Code of conduct into a binding instrument; industry was asking for better European coordination on arms exports, while the French government was keen on reducing red tape for the industry. Time-wise, the negotiations of the Common Position (2008/944/CFSP) and the ICT directive also converged.

Interactions between the various actors of the French arms export policy help understand why and how France, first against a binding Common Position and reluctant towards the ICT directive, eventually reversed its stance on both issues. Indeed, French civil servants in charge of arms export support eventually argued for harmonisation, in order to reach simplification.<sup>55</sup>

### *1. The French government first rejects the Common Position and the ICT directive*

On Dec. 8, 2008, the EU Council adopted the 2008/944/CFSP Common Position "*defining common rules governing control of exports of military technology and equipment*",<sup>56</sup> which reinforced the Code by making it a binding instrument. The Common Position also "*extended controls to cover the licensing of production abroad, brokering activities, transit and transshipment, and intangible transfers of technology*" (Bromley, 2011:40).

A review of the 1998 Code was undertaken in 2003 (Close & Isbister, 2008:4). The idea of the Code becoming a binding instrument was first voiced by NGOs in 2004 (Depauw, 2010:3). The review occurred at the same time as a debate emerged on a policy change on the European arms embargo against China (Depauw, 2010:4). In June 2005, COARM finalised the review of the Code and reached a draft "*Common Position Defining Common Rules Governing the Control of the Exports of Military Technology and Equipment*" (Close & Isbister, 2008:4). However, the situation did not evolve until late 2008, mostly due to the French. Indeed, French officials refused to transform the Code into a Common Position change unless the EU embargo against China was lifted (Irondelle, 2008:158). According to observers at that time, France led a small group of states also in favour of lifting the ban (Dombey, 2005), but from 2006 on, the country was isolated in opposing the transformation of the Code (Isbister 2008; Close & Isbister 2008:4). In 2007, European MPs and the Finnish EU Presidency attempted to revive the topic, to no avail, as France still demanded the China embargo to be lifted in return (Rettman, 2007). Because the adoption of the Common Position necessitated a consensus, France was able to block negotiations for over three years.

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55 This section owes much to Sara Depauw's 2010 paper linking the negotiations of these two instruments, which prompted me to investigate such links: DEPAUW Sara (2010), "The Common Position on arms exports in the light of the emerging European defence market", Flemish Peace Institute Background note, Brussels, 18 January, 20p.

56 Official Journal of the European Union, Council Common Position 2008/944/CFSP of 8 December 2008, defining common rules governing control of exports of military technology and equipment, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:335:0099:0099:EN:PDF>.

Parallel to ongoing discussions on the Common Position, the Commission launched the “defence package” initiative in Dec. 2007. The aim was to replace current domestic export control systems for intra-EU circulation of military goods with processes common to all member states, arguing that authorisation for exports towards other EU member states were extremely rarely denied. This ICT directive, which applies to goods identified in the EU military list, rests on various mechanisms, to be common to all member states (Ministère des affaires étrangères et européennes, 2013):

- General licences enable companies in the EU to undertake an unlimited number of transfers of a specified list of goods towards a specified list of recipients in the general licence. The ICT directive enforces four types of general licences: to armed forces of EU member states; to certified companies; for trials, demonstrations or international exhibitions; and for maintenance and repair transactions.
- Global licences are granted to a specific company and allow it to transfer one or more pieces of equipment, towards specific destinations within the EU.
- Individual licences are granted to a specific company, allowing it to transfer a specific product towards a specific destination within the EU. The delivery of individual licenses for intra-EU transfers should only occur, after the implementation of the directive, on very rare occasions (Masson et al., 2010:7).
- In order to be able to qualify as a destination of general licences, a company can request to become a “certified” company. Member states are in charge of ensuring the certification of companies established within their territory.
- The other two important mechanisms introduced by the ICT directive are re-export controls and sanctions.

Although such streamlining of intra-EU arms exports appears to feed into the French simplification strategy, the French government was not initially enthusiastic about the Commission’s initiative. *“The ministry of Foreign Affairs was resisting the directives, as well as the defence firms. They were all afraid that the Commission would meddle in their business.”*<sup>57</sup> *“The directive was perceived as infringing upon national sovereignty, as it opens the door to challenging license denials at a supranational judiciary institution”.*<sup>58</sup> In response to the 2006 Commission consultation, French authorities strongly emphasized the importance of national sovereignty in matters of arms export control and gave priority to the inter-governmental approach on this issue – such as the Farnborough framework agreement or the COARM (SGAE, 2006). Indeed, many within the French arms export control authorities preferred to deal with these issues within the Lol working group, rather than on the broader EU level.<sup>59</sup> When debating the ICT directive, the Senate highlighted that *“intergovernmental cooperation already exists (Sénat, 2008).”*

## *2. The reversal in favour of the ICT directive: harmonisation serving simplification*

Although French authorities were at first outspokenly against the Common Position and reluctant about the ICT directive, the government reoriented its policy: both were eventually agreed upon at

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<sup>57</sup> Interview, Politician, 4 June 2013.

<sup>58</sup> Interview, DGA, 11 June 2013.

<sup>59</sup> Interview, SGDSN, 7 June and 18 June 2013; Interview, Defence Ministry, 8 July 2013.

the end of 2008 during the French EU presidency (“Présidence française de l’Union Européenne”, PFUE). This can be explained by discussions among civil servants in charge of the arms export policy. Civil servants in charge of controls feared that, through harmonisation, Europe would get a say in export licensing decisions. However, civil servants responsible for export promotion viewed the ICT directive as an opportunity for the simplification of control processes. They convinced the newly arrived policy-makers at the ministry of Defence and the Elysée in 2007 - 2008 that simplification of French export controls could be reached thanks to the ICT directive.

France rallied the defence package, including the ICT directive, in the context of the French EU Presidency. French officials traditionally consider the EU Council Presidency as windows of opportunity (Charillon & Ramel, 2010:30). Moreover, the European defence and security policy was presented as a core priority of the PFUE (SGAE, 2008:11). There was therefore a high political stake placed by the government on defence-related issues in the EU in July - Dec. 2008. For Howorth (2009), this might explain why the defence package was after all “enthusiastically” pushed for by the PFUE. According to Hoeffler (2011:518), the Elysée and the Defence Ministry’s orders to French representatives in Brussels were that a text had to be agreed upon before the end of 2008. *“At the end [of the French EU Presidency], what really mattered was the decision being taken before the end of the year” [...] “There was a lot of pressure, and we worked a lot” [...] “It [the PFUE] constrained our room for manoeuvre, as our mission was ‘we must find a political agreement’”* said French negotiators (Hoeffler, 2011:519).

Additional interviews confirm that the French eventually endorsed the defence package to reach a political goal before the end of the Presidency. An interviewee at the Defence ministry explained: *“at first, French authorities were rather against the ICT directive. For the people responsible for export controls, this had to do with the core of what can’t become supranational. [...] But the Commission came with a package presented as “internal market”. [...] This way the Commission managed to convince the Ministry of Foreign Affairs. These guys suddenly thought: we have something symbolic for the French Presidency! The Commission’s defence package gave them something to promote during the PFUE. Plus, it was coherent with the idea of the “Europe of Defence” we wanted to build up. In the end, the Ministry of Foreign Affairs won over the SGDSN who was against the ICT directive, when the higher authorities had to choose. This means that the political side of the debate was prioritized: the European Presidency has to help the EU move forward.”*<sup>60</sup> The PFUE political factor appears all the more important in the French reversal due to the fact that the new minister of Defence and his staff were pro-European.<sup>61</sup> This was the first step in the French reversal regarding the ICT directive.

Another reason, related to the harmonisation and simplification strategies developed in this paper, explains the change of the French negotiating stance. *“There was a change in the state of mind during negotiations in France. This was a constructive change: why couldn’t we use this opportunity to improve our system? [...] We will use the opportunity of the transposition of the directive to renovate everything, because we will, in any case, need to legislate and publish new decrees.”*<sup>62</sup> Another participant in the arms export control decision-making recalls that: *“We had the idea of using the dynamic of the ICT, and to transpose the idea of a single licence. We really shouldn’t*

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60 Interview, Defence Ministry, 13 June 2013.

61 Interview, Defence ministry, 8 July 2013.

62 Interview, Defence Ministry, 13 June 2013.



*maintain this double authorisation system that we are the only ones in the world to have!*<sup>63</sup> To this can be added the explanation of an interviewee, formerly participating in arms export promotion, of how he convinced civil servants in charge of arms export controls of the political opportunity offered by the ICT: *“They saw the ICT as a threat. But I told them: it’s coming anyway, and if we don’t adapt our system now, everything will be completely blocked. [...] We used the ICT to convince them to reform the control system.”*<sup>64</sup> The decision in favour of the ICT is reflected in the 2008 Defence White Paper, published 17<sup>th</sup> of June, 2008, shortly before the start of the PFUE. This document states that France supports the introduction of general and global licenses for intra-European transfers, as planned by the project of ICT directive (Présidence de la République, 2008, pp.265-266).<sup>65</sup>

Therefore, the French decision to eventually adopt the defence package, and specifically the ICT directive, was both linked to the political context of the PFUE, but also to struggles between civil servants in favour of simplification against those afraid of harmonisation – where the former won the political battle against the latter.

### *3. The reversal in favour of the Common Position: protection against European jurisprudence*

However, the French not only finally decided to support the ICT, but also reversed their position on the Common Position during the PFUE. To understand this, it is necessary to keep in mind that the negotiation of the ICT and the Common Position occurred in the same time frame. The ICT generated *“a huge political-judicial battle”* among French authorities involved in arms exports policy-making: *“Because of the ICT, there were fears that the Commission would eventually gain the competence of the external arms trade. If the Commission is allowed to regulate internal trade, it can gain the competence to take appropriate measures externally. This comes from European jurisprudence.”*<sup>66</sup>

This refers to case 22/70 by the European Court of Justice, from 31 Mar. 1971, known as the ERTA judgment (European agreement on road transport). The Court of Justice ruled: *“once the community has laid down common rules in whatever form, the member states no longer have the right, acting individually or even collectively, to undertake obligations with third countries which affect those rules or alter their scope”* (Vogler, 2011:354). This judgment implies the parallelism of the Commission’s internal and external competencies. In the context of ICT negotiations, this parallelism entailed the fear that *“after having organised the “free-circulation” of military goods within the EU, the Commission could take competences on exports to the rest of the world.”*<sup>67</sup> The Senate even debated the issue: *“shouldn’t we fear that tomorrow the Commission assumes the right of competencies over arms exports outside the European Union? It could to this purpose use the ERTA judgment”* (Sénat, 2008).

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63 Interview, Defence Ministry, 22 July 2013.

64 Interview, Defence ministry, 7 July 2013.

65 “[...] La France est favorable à l’institution de mécanismes de licences générales ou globales pour les industriels européens. Elle souhaite la mise en place, à terme, d’un espace européen de libre-échange des équipements de défense entre les pays disposant de procédures de contrôle comparables et proposera cet objectif à tous ses partenaires” (Présidence de la République, 2008, pp.265-266).

66 Interview, Defence Ministry, 8 July 2013.

67 Interview, Defence Ministry, 8 July 2013.

As a result, *“the government realized we couldn’t oppose the defence package and the ICT directive. But how could we circumscribe the community’s competences? The instrument for this was the CFSP, which was still at that time the 2<sup>nd</sup> pillar. So what the Law Department [within the Ministry of Defence] said was: to block the development of a community competence in the field of arms exports outside the EU, we need a CFSP action in the same field, so as to demonstrate that the governments have already started to develop this competence on a 2<sup>nd</sup> pillar basis. This was a kind of judicial protection, so that the Commission could not later on claim that there was an empty spot and take it.”* Put more briefly: *“we reached this judicial analysis to say that, if we don’t want a community competence to develop on arms exports, we need to adopt the Common Position. Therefore, France had to change its negotiating position.”*<sup>68</sup> This explanation of the French adoption of the Common Position was confirmed through another interview: *“The adoption of the Common Position was a political move, in order to protect the states in their role of arms export controllers. The list of military goods is negotiated in the framework of the CFSP. Each year, the Commission has to transpose the list from the CFSP for the functioning of the ICT. This shows that states still have control over this policy. The Commission can deal with [intra-EU] transfers, but states keep control over outside exports and politics.”*<sup>69</sup> This also shows in a report by MP Yves Fromion in 2008, where he recommends that *“in parallel to the examination of [the ICT directive], it would be timely to demonstrate the inter-governmental character of the arms export control policy outside the EU, through a CFSP initiative [...], by lifting the French veto on the transformation of the Code of conduct on arms exports into a common action (that would provide it with a judicially binding value)”*<sup>70</sup> (Fromion, 2008:25).

Additionally, several external reasons occurred to explain why France gave up on linking the EU Common Position with the Chinese embargo issue, most importantly pressures from the United States and fragmentation among EU member states (for full analysis, see Meijer, 2014).

To sum up, the new majority in power in 2007 considered that the Commission’s “defence package” could be a good political objective to reach by the end of the PFUE in Dec. 2008. In addition, export promotion actors within the bureaucracy saw the ICT directive was a political window of opportunity to overhaul the French export control system. As a result, the French position turned in favour of the ICT directive. However, to assuage fears that the Commission may gain too much power because of the ICT directive, it was decided to accept the transformation of the Code of Conduct into a Common Position, to prevent future development of the Commission’s competences over arms exports. This shows the complete inter-crossing of the harmonisation and simplification evolutions of the French arms export control system.

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Here again, the harmonisation strategy, understood as the development of common rules in the field of arms export controls, could be seen as a way to answer both civil society pressure (Common Position) and increased European interdependency in the defence sector (ICT directive). Combined

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68 Interview, Defence Ministry, 8 July 2013.

69 Interview, Defence Ministry, 22 July 2013.

70 “Il serait par ailleurs opportun, en parallèle de l’examen de ce texte, de manifester le caractère intergouvernemental de la politique de contrôle des exportations d’armement en dehors de l’Union au travers d’une initiative prise au titre de la PESC (et donc dans un cadre intergouvernemental) dans le domaine en levant le veto français à la transformation du code de conduite sur les exportations d’armement en action commune (ce qui lui donnerait une valeur juridiquement contraignante) évoquée en groupe COARM depuis un certain temps et qui est souhaitée par l’ensemble des autres Etats membres” (Fromion, 2008:25).

together, the negotiations of these two European instruments can be interpreted from the French perspective as a way to further the simplification strategy (ease French arms export controls), via harmonisation (liberalised procedures for military goods circulation within the EU). Alongside those two strategies, the Common Position appears as a side-product of ICT discussions.

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### *C. SIMPLIFICATION OF THE ARMS EXPORT CONTROL REGIME THANKS TO THE OPPORTUNITY OF THE ICT DIRECTIVE*

The association of both simplification and harmonisation of arms export controls is all the more striking in the transposition process, when the French government used the ICT directive to overhaul the entire domestic arms export control regime, instead of only export controls towards EU member-states as required by the directive. Indeed, the government “took the opportunity”<sup>71</sup> to reform the entire export control procedure.

#### *1. Continuation of the simplification strategy at the start of the Sarkozy Presidency*

Even before the transposition of the ICT directive, the French government continued simplification of export controls started by their predecessors. As early as 2008, in the Morin plan to improve arms exports (Ministère de la Défense, 2008a) and the Defence White Paper (Présidence de la République, 2008:280),<sup>72</sup> the government stated its intention to simplify arms export controls.<sup>73</sup>

Since 2006, companies can contact the government for help to classify their products, to determine if they require a license. This measure is presented as a simplification because it filters out unnecessary requests (Ministère de la Défense, 2007:25). In Aug. 2006 AEMGs were extended from a one-year to two-year validity period. The same year, global AEMGs started to be used to replace batches of ordinary AEMGs, for less sensitive equipment, industry cooperation or frequent exchanges to trusted destinations (Ministère de la Défense, 2007:39). After the Fromion report, the AP for negotiations and the AP for sales were merged into a single AP. This new AP enables a firm to reply to a tender, to negotiate and sign a contract (Ministère de la Défense, 2008b:41). However, an AP remains necessary to give out sensitive information (DGA, 2012a:10).<sup>74</sup> The remaining level of AP has also been

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71 Interviews, Defence ministry, 19 and 25 Mar. 2013; Sénat, 2011:25 ; Ministère de la Défense, 2010:46; Fromion, 2010:24

72 « S’agissant du contrôle des exportations, les efforts seront poursuivis pour simplifier et hiérarchiser les procédures, notamment afin de réduire les délais de traitement des demandes. Les contrôles des transferts entre les pays européens engagés dans des programmes de coopération devront être abolis. » (Présidence de la République, 2008 :280).

73 In a presentation of June 2008 addressed to the industry, entitled “the improvements of the arms export control system in France”, the Defence ministry explained that the work on this topic accomplished within the Defence ministry and through intra-ministerial cooperation, came to various sets of objectives: reduce process delays of arms exports requests; ease procedures for the industrials; revise the classification of defence materials; improve dialogue between the ministry and the industry; facilitate defence equipment exchanges with European countries and other allies (DGA, 2008).

74 Sensitive information designates what could enable the client to reproduce the entire material or part of it, information that would permit the client to disrupt the functioning of the equipment, or to give out information that fall into the

extended to three years validity. The government also increasingly processed industry authorisation requests by electronic means (Ministère de la Défense, 2008b:46). Other simplifications aimed at accelerating control processes, with a movement of staff in charge of arms export control towards the DGA in 2008, reversing a previous 2000 decision, and increased use of “online CIEEMG” where the ministries give their agreement electronically instead of at formal meetings (Royal, 2009:34-35).

On June 20, 2011, a ministerial order introduced further simplifications. It broadened the scope of the remaining AP so that negotiations were no longer submitted to the deliverance of an AP – i.e. an AP remains necessary only before the company wants to sign a contract, not before beginning sales talks. Additionally, this ministerial order extended AEMGs to three year validity (Ministère de la Défense, 2011:44).

## *2. The 2011 reform: how the two strategies to adapt export controls to a changed arms market met*

Law n°2011-702 of June 22, 2011<sup>75</sup> transposes the directives of the defence package into French legislation. It simplifies not solely intra-EU arms transfers but also the entire arms export control system. This can be interpreted as the association of harmonisation and simplification strategies. To French officials, this new system will be better adapted to international competition.<sup>76</sup>

The reform of intra-EU transfers and outside-EU exports aims to reduce the time needed for each authorisation request, from 110 days to 50, and cut by half the number of individual administrative decisions from 14,000 to 6,000 per year (Sénat, 2011:41). Importantly, the reform aims to have only sensitive cases brought up in formal CIEEMG meetings. Additionally, the reform was accompanied by an overhaul of the IT system in order to achieve full computerisation of license requests. Furthermore, the classification of war materials has been simplified, on Mar. 6, 2012.<sup>77</sup> The goods controlled are those defined by the common EU military list, to which France has added two categories of equipment, satellites and space launch vehicles (Ministère de la Défense, 2011:50).

The ICT directive creates three types of licences: general, global and individual. The government aims at replacing existing layers of controls (AP, AEMG, and APD) with a system based on the ICT directive – general, global and individual licences. The June 2011 law distinguishes “transfers” (intra-EU) from “exports” (outside EU).

The new single licenses (“licences uniques”) are to replace prior agreements (AP). The single license authorises, in one single bureaucratic step, the firm to negotiate, sign a contract and export the goods – whereas previously a firm needed two bureaucratic steps to do so, the AP and AEMG.<sup>78</sup> With

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category of classified information by the government (i.e. that are considered as pertaining to national security considerations). Interview, Defence Ministry, 19 Mar. 2013.

75 Loi relative au contrôle des importations et des exportations de matériels de guerre et de matériels assimilés, à la simplification des transferts des produits liés à la défense dans l’Union européenne et aux marchés de défense et de sécurité (Journal officiel du 23 juin 2011, loi du 22 juin 2011 n°2011-702).

76 Interview, Defence ministry, 25 Mar. 2013.

77 Loi n°2012-304 du 6 mars 2012 relative à l’établissement d’un contrôle des armes moderne, simplifié et préventif, JORF n°0057 du 7 mars 2012 page 4200, texte n°1, <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000025445727&dateTexte=&categorieLien=id>.

78 These new licences once granted enable the company to execute all of the following transactions: (1) Give out sensitive information; (2) The presentation and trial in order to obtain foreign orders, except presentations in international exhibitions located in France; (3) Hand over abroad any intellectual property rights or documents related to controlled

the reform, the APD also disappears for both intra- and extra-EU arms sales (Ministère de l'économie et des finances, 2012:5).

With the withdrawal of the AP and the AEMG, the French arms export control system changes its main principle inherited from 1939: the regime used to prioritize ex-ante controls ("*contrôle a priori*" in French reports on the reform). The new system now relies mostly on ex-post controls ("*contrôle a posteriori*").

#### *Single licences to replace prior agreements and export authorisations*

To begin with, for individual licences, the administration will authorise ex-ante the company to engage in sales negotiation ("*échanges techniques amont*"), to reach a contract and finally to deliver the goods (DGA, 2012b, Ministère de la Défense, 2014). The individual license allows a company to transfer/export specified amounts of one or several identified military goods, through one or several deliveries, to one specified recipient (Gouvernement français, 2010:21). But the administration will control ex-post, i.e. once the goods are out of the country, to ensure those goods match what had been initially authorised through the license.

Thus, if there is no condition attached to the individual or global license, the administration no longer controls ex-ante whether the contract and what exits the territory match the license. The administration will control ex-post if the license is respected, using registers provided by the company twice a year. The conformity of the equipment sold with the list of equipment indicated in the license is controlled by the French administration after the goods have left France –ex-post. The CIEEMG will hence decide only once whether or not to authorise the sale under consideration. The CIEEMG will not examine – only exceptionally – the contract before the delivery is actually undertaken. If the CIEEMG lays conditions to granting the license, the Defence ministry checks whether the industry abides by these conditions.<sup>79</sup> If the conditions are met, then the Defence ministry notifies customs services that the license is approved. Customs eventually inform the company it can carry out the delivery.<sup>80</sup> Therefore, whether it has conditions attached to it or not, the CIEEMG will examine an export transaction only once, instead of twice formerly. The individual license is valid from the start of negotiations until the equipment has physically left the national territory (SGDSN, 2012). For transfer transactions (intra-EU), the government should use individual licenses as little as possible and focus on general and global licenses.

The process for global licenses is similar to individual ones. However, whereas individual licenses authorise one specific transaction for a specific amount of goods and to a specific destination, global licenses allow transfers/exports of unlimited quantity and amount of deliveries for a certain period of time. They are mostly intended for joint European weapons programmes (Gouvernement français,

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goods; (4) Giving out the results of preparatory studies or trials, or technologies for the design or manufacture directly related to these controlled goods; (5) Accept orders and signing contracts, including for preparatory studies and manufacture in preparation for exports/transfers; (6) Temporary or final export/transfer, of the controlled materials to one or several destinations inside/outside the EU.

<sup>79</sup> Which can relate notably to the technical characteristics of capacities of the equipment, on the end-use or end-user, on some contracting or commercial aspects.

<sup>80</sup> "Conséquences de la réforme du contrôle des matériels de guerre", Séminaire du 13 février 2013, Direction générale des Douanes et Droits Indirects, Le portail de l'armement: "FAQ et séminaires", <http://www.ixarm.com/-FAQ-et-seminaires->, accessed Sep. 10, 2014

2010:27). Here again, the administration controls ex-ante if it is appropriate to sign the contract, but will control ex-post that deliveries carried out under global license match the contents of the license.

*General licences: a new way to authorise arms exports for the French system*

Introduced by the ICT directive, general licenses are new to the French export control system. General licenses consist in ministerial orders that publish specific combinations of military goods and types of recipients. Eight types of general licenses for transfers and one general export license have been published so far.<sup>81</sup>

If a company has clients that match the specified categories of recipients, with goods that match those listed in the licenses, it may use general licenses. The firm then has to declare its intention to use a general license to the DGA by registering, at least 30 days (when transferring to a recipient within the EU) or three months (when exporting outside the EU), before the planned transaction. In order to register, the company needs to maintain a register of all transactions, provide a biannual report of orders and deliveries, and archive vouchers. These obligations enable the administration to carry out ex-post controls. This way, companies need to interact only once with the administration to be allowed to use the license. After registration, firms are entitled to use the general license for an unlimited number of transactions, for the type of equipment and clients specified within the license. Recipient firms for general licenses must also be certified to be able to receive deliveries.<sup>82</sup> General licenses have no pre-determined duration.

There are solely ex-post controls by the administration to check whether what has been exported was indeed within the boundaries of the general license. The registration is thus the only ex-ante control undertaken by the administration in the framework of these general licenses. However, *“the administration cannot refuse a general license, it is a right.”*<sup>83</sup> The registration enables the administration to know who uses the general license. Within the timeframe of the registration process, the administration can meet the firms’ representatives for interview. Through this interview, the administration checks whether the firm understands how the general license works and whether its equipment falls under the specifications of the license (DAS, 2011).

*New mechanisms of ex-post controls*

The reformed French arms export control system will rely on the trust given ex-ante to the companies who benefit from global and general licenses, as well as on the ex-post control (Gouvernement français, 2010:21).

Ex-post control processes verify that the contents of the licenses were respected (DGA, 2013a). Ex-post controls are achieved through registers, reports and archives maintained by the industry, as well as on-site surveys. Firms need to send the reports that contain orders and deliveries twice a year

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81 See: “Le portail de l’armement : Licences générales” <https://www.ixarm.com/-Licences-generales->, accessed Sep. 10, 2014.

82 The certification process is not uniform across the EU, as it falls within each state’s jurisdiction to define the process.

83 Interview, Defence ministry, 11 Apr. 2013.

(Mar. 1<sup>st</sup> and Sep.1<sup>st</sup>).<sup>84</sup> These biannual reports are intended to replace the APD that was abolished by the reform, and which enabled the administration to establish arms exports statistics. The administration's figures on arms exports will therefore now rely on the industry's reporting obligations.

The DGA will check ex-post contracts, end-user certificates and biannual reports. Defence ministry agents will regularly go to the company's buildings to check transfer/export registers. During his control visit, the agent writes a factual official report ("procès-verbal"). These reports are then sent to a newly set up Committee for ex-post control. If a problem in the industry's activities has been noticed, the Committee for ex-post controls can then either send a warning ("*rappel à la loi*") to the company; recommend the CIEEMG to suspend, revoke or remove an individual/global license, or the right to use a general license; or transmit the case to the Justice administration.<sup>85</sup> In case of violations of the authorisation or of ex-post control obligations, the maximum sanction is 5 years of imprisonment and a €75,000 fine.

The new law further specifies cases where the government is entitled to suspend, revoke or remove the licenses.<sup>86</sup> These decisions are taken at the CIEEMG formal meeting. The government is thus protected if an industrial lied on what he actually intended to transfer/export (i.e. if the industrial lies on the technical specificities of the equipment, which would thus fall under the terms of an arms embargo for instance).<sup>87</sup>

The new arms export control system can be interpreted as a simplification of the bureaucratic process, as the French authorities claim. A company needs to interact with the administration only once either for one single transaction in the case of individual licenses, and only once for an unlimited number of transactions in the case of global and general licenses. In the new procedure, when the license is granted, the company can sign the contract and deliver the equipment straight away, that is without returning a second time to the administration to be allowed to ship the goods.

### *3. A simplification for the industry ... or for the administration?*

But the reform's simplifications apply to the administration perhaps even more so than to the industry, at least in the period of time when firms will need to adapt to the new system. The transition period between the 2011 law and its full implementation, which occurred on June 4, 2014, has been complex. The decree that stipulates the transitory regime was published on Nov. 9, 2011. Three ministerial orders were published on Nov. 30, 2011 mostly dealing with certification procedures, ex-post controls and re-exporting conditions; then the general licenses on Jan. 6, 2012; on June 27, 2012 a ministerial order updated the list of controlled goods. The various general licenses were published between Jan. 6, 2012 and June 6, 2013. On June 30, 2012, a first set of measures was implemented (general licenses, certification, ex-post controls and reporting obligations, removal of

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<sup>84</sup> The first report was sent on Mar. 1st, 2013. The reports need to contain past and ongoing transactions: transactions that have a licence but no order, orders received but not yet delivered, past deliveries (Ministère de la Défense, 2012a).

<sup>85</sup> Interview, Defence ministry, 25 Mar. 2013.

<sup>86</sup> Licenses can be suspended, revoked or removed, for motives of respecting international commitments, to protect essential security interests, public security or order, or if the user of the license does not comply with its specifications.

<sup>87</sup> Interview, Defence ministry, 25 Mar. 2013.

APDs). On July 20, 2012, the definitive decree was published. Old APs and AEMGs were originally supposed to disappear before June 30, 2013, when the new individual and global licenses were to be introduced. However, the full implementation of single licenses occurred as late as June 4, 2014 mostly due to delays in setting the new IT system. This wait has generated uncertainties for the industry,<sup>88</sup> although the administration and the industry worked hand-in-hand to design the reform.<sup>89</sup>

Moreover, some differences between intra-EU transfers and outside-EU exports remain. Individual licenses will be used for outside-EU transactions, but are supposed to remain an exception for intra-EU transactions. Conversely, defence firms expect that general licenses will be mostly for intra-EU sales.<sup>90</sup> Regarding customs services, the APD is abolished for both EU and non-EU destinations. But firms who wish to dispatch goods outside the EU still need to give a deposit (*“acquit à caution”*) that will be handed back once customs services receive proof that the goods reached the end-user. Also, the simplification that consisted in harmonising processes with other European states does not go all along the way: satellites and space launch systems are not on the common EU military list, but are considered as subject to arms export control process in France.<sup>91</sup>

Besides, the reversal from ex-ante to ex-post control will require the industry to adapt, which also mitigates somehow the outcome of the simplification strategy. In exchange for the greater freedom introduced by the unique level of control prior to negotiating, selling and delivering, *“the industry has more responsibilities”* (DGA, 2013b). In other words, the reform accentuates self-regulation of the industry. In the former system, salespeople within a company would discuss their projects with the company’s export control team, who in turn would discuss with the government administration and, if needed, launch a process to request an AP. After the AP was granted, the contract was then signed and sent to the Defence ministry to verify that it complied with the AP, in order to obtain an AEMG, and eventually be entitled to carry out a delivery. In a nutshell, the administration was responsible for checking if what exited the territory complied with the projected sale the government had originally authorised.

In the new system the authorities control only what was formerly the AP – before the contract was signed – to say whether it is adequate or not to supply such equipment to such a recipient. But, as the AEMG no longer exists, it falls to the company to ensure that what is exported has indeed been authorised to exit the territory according to the license. This transfer of responsibilities between government and industry is even more striking for general licenses. With general licenses, the company, once registered, can sign any contract and export straight away. Neither the Defence ministry nor customs verify if goods shipped away comply with the contents of the general license. The industry needs to make sure that what it sends abroad matches authorisations, without the government having to double-check it. Industry leaders take the legal and criminal responsibility for mistakes or violations of the licence. A Defence ministry official elaborates: *“with the general license, the link between the contract and the authorisation is more vague. The industrials need to take into*

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88 Interview, Industry, 27 Mar. 2013.

89 Interview, Defence ministry, 18 Mar. 2013; Assemblée Nationale, 2012a

90 Interview, Industry, 27 Mar. 2013.

91 Arrêté 27 juin 2012 relatif à la liste des matériels de guerre et matériels assimilés soumis à une autorisation préalable d'exportation et des produits liés à la défense soumis à une autorisation préalable de transfert, JORF n°0151 du 30 juin 2012 page 10702 texte n° 28.



*account this change of responsibilities*".<sup>92</sup> An industry executive said more bluntly: *"the administration is unburdening itself of a task onto the firms"*.<sup>93</sup>

Defence firms also need to ensure that what they send abroad does not contain classified information. Whereas previously via the AEMG procedure the administration checked if contracts and related documents did not refer to any classified information, the new process does not include such verifications. It falls to the firms to ensure that they do not give out classified information. If they do – even unwittingly - this could be picked up during ex-post controls. This reinforces the logic of the reform toward self-control by the enterprises and the unburdening of the administration.<sup>94</sup>

Therefore, the new procedures imply that companies adapt themselves, for instance through internal reorganization. It is expected that for bigger arms firms the adaptation is not too harsh, but that it is more difficult for SMEs, due to limited resources.<sup>95</sup> Similarly, the certification process, although in the long run should bring simplification for the companies, may be initially felt as yet more red tape to go through.

Hence the reform looks more like a simplification for the administration than for the industry. As a DGA official stated: *"Self-regulation by the users of the license when presenting their license requests, replaces in most cases the control of the administration"*<sup>96</sup> (DGA, 2013b). In return, *"the political risk has increased"* for the administration.<sup>97</sup>

Not only is simplification slow, but the reform also lacks in terms of harmonisation. Because general licenses are defined by states and not by the Commission, general licenses vary from state to state – hence practically useless for some companies.<sup>98</sup> *"Each state has its own perception of what are sensitive products, each state tries to protect its 'crown jewels'. So each state has a different view of what should be in the general licenses. As a consequence, there are as many different conditions as there are general licenses and countries, which means 26 times 6 or 7..."*<sup>99</sup> For instance, France provides as an annex of each general licence the EU military list categories, and for each specifies if some products are excluded from the licence (Seniora, 2013:8). This might explain why certification is quite slow. As of Sep. 10<sup>th</sup>, 2014, only 31 firms were certified, including 7 from France.<sup>100</sup>

## CONCLUSION

The 1990s saw a new era for European and French arms trade. Four "streams" impacted arms exports, and arms export controls. These four streams are (1) rising demands from industry for state

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92 Interview, Defence ministry, 25 Mar. 2013.

93 Interview, Industry, 27 Mar. 2013.

94 Interview, Defence Ministry, 11 Apr. 2013.

95 Interview, Industry, 27 Mar. 2013.

96 "L'autocontrôle de l'opérateur dans la préparation de sa demande de licence remplace dans la majorité des cas le contrôle par l'administration avant le passage de l'AP en CIEEMG et avant la délivrance de l'AEMG. Sa responsabilité d'exportateur prend une importance accrue en contrepartie de sa plus grande liberté" (DGA, 2013b).

97 Interview, Defence Ministry, 11 Apr. 2013.

98 Interview, Industry, 24 Apr. 2013 ; 12 July 2013.

99 Interview, Industry, 9 Apr. 2013.

100 European Commission, Certified Enterprise Register (CERTIDER), <http://ec.europa.eu/enterprise/sectors/defence/certider/index.cfm?fuseaction=undertakings.countries>.

support, demands perceived as legitimate by French authorities; (2) decreased legitimacy of the state to act in the economy in the context of the neoliberal paradigm which permeates the French economic policy (Jobert, 1994) and arms production system (Hébert 1995; Hoeffler, 2011); (3) increased interdependency of European states and corporations in the field of arms production; (4) civil society campaigns for a better regulation of arms transfers and a greater transparency. Confronted with these changes, French authorities developed two strategies to adapt their arms export control system: simplification and harmonisation.

The simplification strategy, i.e. facilitating export control procedures for the industry, answered demands of the industry for government support within the overall neoliberal framework. The harmonisation strategy, i.e. developing common European rules for arms exports, responded both to NGO and industry demands, as well as to European cooperation. The simplification strategy removed layers from the export control system, but without changing the overall system in the 1990s and early 2000s. The harmonisation strategy consisted in joining a UK-led initiative to create a European Code of Conduct, but during the negotiations to act as a blocking state so that the Code would not become too stringent – thus not contradicting the simplification strategy.

From 2006 onwards, the four streams deepened and converged, due to external and domestic factors. Industry demands were met with a renewed political will to increase arms exports. This was reinforced by a political will to unburden the French economy from state intervention and red tape. European Commission initiatives were also strengthened. However, NGO resources focused on the ATT and the Common Position rather than on the ICT directive and domestic reforms in the mid- and late 2000s. The French government took up the EU Council presidency in the second half of 2008. Political will to reach an agreement on the European defence package and the political opportunity offered by the ICT directive to reform domestic export controls led the government to support the ICT directive. Moreover, French authorities compromised on the Common Position to avoid supranational competences on arms exports outside the EU.

From there on, it becomes difficult to distinguish harmonisation from simplification: harmonisation and simplification converged through the ICT directive, as it was perceived in Paris as an opportunity to simplify not only intra-EU arms transfers but the entire export control regime. Export controls in France changed from an overall ex-ante process (the administration checks whether the goods are authorised to leave the territory before the actual shipment) to a mostly ex-post one (the administration checks after the goods have been sent that the delivery matched the contents of the authorisation). The new procedure aims to simplify bureaucratic processes, but the industry needs to adjust to increased self-regulation before deriving benefits from the new system – which was only fully implemented in June 2014.

What lessons can we draw so far from the evolution of the French approach to arms export controls? European harmonisation of arms export controls can be seen as a step to de-politicizing the topic, by approaching it on a technical side (bureaucratic processes), and not a political one (sensitive goods/destinations). The fact that “defence-related products” fall under EU competences changes how they are perceived: more and more like a “regular market” to which common market rules should be applied (Balzacq et al., 2009). Intra-EU transfers are presented at the EU level not like a political matter but a commercial one. Simplification of controls also fuels this evolution, where arms exports are approached through their economic aspect: the state removes constraints to the economic activity to facilitate trade, and puts priority on industry self-regulation.

Yet, simplification and harmonisation of French arms export controls have not yet fully adapted to the global arms trade of the 21<sup>st</sup> century. The reforms focused on the administrative side, but not the political side of export control decision-making processes. The French reform lacks guidance for politicians, bureaucrats and companies alike on how to assess arms exports in the light of increased technology transfer requests from clients, who also become competitors. The reform did not determine what types of technologies are sensitive in today's international relations, and to which destinations. Such questions remain a challenge to the entire arms export control community.

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## FRENCH ADAPTATION STRATEGIES FOR ARMS EXPORT CONTROLS SINCE THE 1990s

This *Paris Paper* looks at how successive French governments progressively adapted arms export controls to the new conditions of the international arms market since the 1990s. The author identifies four significant trends that impacted French arms export controls: growing industry requests for state support on arms exports, perceived as legitimate by political actors; the overall neo-liberal economic paradigm; governmental and industry cooperation at the European level; and civil society demands for integration of human rights issues in export control decision-making and greater transparency. To answer these sometimes contradictory economic and political streams, French governments progressively developed two strategies to adapt arms export controls: simplification and harmonisation. Whereas in the post-Cold war period, simplification and harmonisation were conducted separately, with step-by-step simplification of domestic export control processes and negotiations for harmonisation at the European level; from 2006-2007 onwards the two strategies became interwoven. European harmonisation was a vector used to simplify the French national export control procedures. This led to a legislative overhaul of the export control system in 2011, which was fully implemented in mid-2014. A significant consequence of these reforms was increased reliance on industry self-regulation for export controls.

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