

transfers. Several UN Resolutions and multilateral and unilateral Codes of Conduct address various aspects of the SALW issue.³⁴ Still, because of their voluntary nature, the utility of these codes are questioned by many advocates. According to an analysis of the EU Code of Conduct by OXFAM,³⁵

“there is no explicit obligation to prohibit transfers to forces which would most likely use them to seriously violate international humanitarian law (which sets out the rules of war). Moreover, there are virtually no provisions to address the current deficiencies in most EU Members States’ arms control regimes, such as the failure to strictly regulate international arms brokering and licensed production agreements, or to adopt rigorous systems of certifying and monitoring end-use. Finally the Code, as agreed, contains no provision for parliamentary or public scrutiny over arms exports from the EU and thus does little to foster greater transparency and accountability over the arms trade across Europe as a whole.”

Nonetheless, brokering is difficult to control.³⁶ Most export regimes cover goods exported from one country to another, and it can be difficult to apply laws on an extra-territorial basis where transactions occur outside of a state’s effective national jurisdiction. While licensing measures address the issue of technology transfer, it is difficult to impose extra-territorial control once a license is granted – particularly given the legal and sovereignty implications to such efforts. After all, any precedence setting measure established for SALW might, in the minds of some states, lead to controls on other goods. A less complex safeguard might be to verify the nature of the customer and the integrity of that country’s export controls rather than to attempt extra-territorial controls. However, few states other than the United States have the clout to apply such constraints. In some cases, security concerns and the presence of economically sensitive information make it difficult to engage in open legislative and public scrutiny of SALW transactions.

³⁴ Several examples of relevant UN resolutions (non-binding) are: UN Security Council Resolution 1209 (1998) document S/1998/1091 on Illicit Arms Flows (dealing with African states and encouraging them to enact legislation to regulate firearms and imports/exports of same); UNGA Resolution 52/38 J of 9 Dec 1997 (which endorsed the recommendations pertaining to SALW in the UN Report of the Panel of Governmental Experts on Small Arms, A/52/298, 27 Aug 1997). A European Union Code of Conduct for Arms Exports was adopted on 9 June 1998. It contains 8 criteria to be considered before permitting arms sales. The EU Code of Conduct is binding on its 15 members. In addition, thirteen European non-EU countries aligned themselves with the Code in August of 1998. While the new Parties included such major exporters as Bulgaria, Poland and Slovakia, it did not include Russia or the Ukraine. See Alan Osborn, “Euro Arms Export Code Extended,” *Defence Industry Report: A Supplement to Jane’s Defense Weekly* (October, 1998).

³⁵ See: <http://www.peacenet.org/disarm/dt.html>. Also see Marc Rogers. “EU arms code hailed success as export reports flood in.” *Jane’s Defence Weekly* (7 October 1998), p. 33.

³⁶ See: Canada, DFAIT, *State Authorization and Inter-State Information Sharing Concerning Small Arms Manufacturers, Dealers and Brokers* (Ottawa, February 1999).