The Netherlands arms export policy in 1997

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Value of licences issued for the definitive export of military goods in 1997, by country of final destination, in NLG million 17

1. Introduction

The information disclosure to Parliament concerning exports of military goods has gradually become more intensive. Since the 1991 White Paper on Arms Export Policy, the Government communicates to Parliament the annual value of arms exports. Initially, this information was divided into a NATO section and a non-NATO section. In 1996, Parliament for the first time received written information on a confidential basis concerning export figures for each non-NATO country. Starting in May 1997, Parliament has received such a confidential report twice a year. As a rule, submission of the information is followed by a General Consultation between Parliament and Government. During the in-camera session of that consultation Parliament can at its request receive further verbal briefing on the specifics of individual transactions.

In accordance with a pledge made by the then Minister of Foreign Affairs in the course of a debate in December 1997 on the Foreign Affairs budget, the Government submitted, in February 1998, a policy paper on greater transparency in the reporting procedure on exports of military goods (Proceedings of the Second Chamber 22 054, No.30). In that policy paper, the Government stated its intention to issue a public report in May each year listing actual exports to each country of final destination during the preceding calendar year. In addition, the Government pledged to provide information on a confidential basis to Parliament in October each year about the value of actual exports during the first six months of the year. However, the coalition agreement of the present Government states that the Cabinet is to issue a public report on granted arms export licences twice a year.

The present report has been drawn up in accordance with the coalition agreement. In this report, the Government informs Parliament as to the value of export licences granted in the year 1997, by country of final destination. In departure from the policy paper of last February but in accordance with the coalition agreement, the figures are based not on the actual export value but on the value as shown on the licences granted.

Subject to the above departures, this report follows the lines as set out in the policy paper of February 1998. This report therefore comprises a statement of the principles and instruments of the Netherlands arms export policy, together with the developments which have taken place in the context of the European Union, for example the "EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms", and those in the context of the Wassenaar Arrangement. In addition, a number of measures will be referred to which were initiated in 1997 but only completed in 1998, such as the EU Code of Conduct on Arms Exports and the recommendations of the Advisory Council on International Issues concerning the future of conventional arms control.

2. The Netherlands defence related industry

With a very few exceptions, the Netherlands defence related industry consists above all of civil enterprises and research institutes with divisions specialising in military production. Although this sector is small in size, nevertheless it is characterised by high-tech production, ongoing innovation and highly skilled personnel. Within the bounds of a responsible foreign and security policy, the government's policy is aimed at retaining this technologically valuable capability for the Netherlands. To this end, Netherlands companies are involved in national military tenders, either directly or indirectly through offset orders. Because clearly the Netherlands market is to small to maintain the available expertise, the Netherlands defence related industry is also encouraged to take part in international joint ventures in the field of defence equipment.

The importance of the export activities of this sector is recognised as an essential condition for the continuity of the existing technological base. Equally, it is recognised that in the interests of the international legal order and the safeguarding of peace and security, limits must be imposed on the export activities of the defence-related industry. Within those limits, however, in the Government's judgement the Netherlands industry should be able to meet other countries' legitimate needs for defence equipment. Bearing in mind the above-mentioned conditions and circumstances, the Netherlands defence related industry has pursued a policy of increasing specialisation. Those companies with the largest export share in their military production manufacture principally high-tech components and sub-systems. Although the maritime sector in particular still has the capability to undertake all the production stages from drawing-board to launching-slip, Netherlands exports of complete weapons systems in recent years can be virtually entirely accounted for by disposals of surplus Netherlands defence equipment.

The results of an annual survey held in the Netherlands trade and industry sector, in which among other things information is disclosed on a voluntary basis concerning production intended for defence orders at home and abroad, broadly indicate that in the Netherlands some 150 companies are in some way engaged in military production. For the period 1992 - 1996 the average total annual turnover of those companies was NLG 46.0 billion, of which about NLG 3.0 billion was attributable to military production. The main sub-sectors of that military production, in declining order of importance, consisted of 'maritime applications', 'infrastructure', 'electronics and information technology' and 'aerospace technology'. It should nevertheless be noted that for the purpose of these surveys military production was defined as production intended for domestic and foreign defence orders and not as production of goods which are classified as military goods in accordance with the Strategic Goods Export Order 1963 and which are therefore subject to a mandatory licence when exported.

The annualised average total exports by the companies concerned in the period 1992-1996 was about NLG 12.7 billion, of which about 1.2 billion was classified as military exports. The total number of employees working for the companies concerned averaged 143,000, of which according to the survey on average 12,000 were assigned to military production.

3. Instruments and procedures of the arms export policy

Licences for the export of military goods are issued on the basis of the Import and Export Act. A company intending to export goods that appear on the list of military goods pertaining to the Annex to the Strategic Goods Export Order 1963, applies to the Central Import and Export Service (Centrale Dienst voor In- en Uitvoer,CDIU) for an export licence. The CDIU forms part of the Tax and Customs Department of the Ministry of Finance and, with regard to arms export policy aspects, receives its instructions from the Ministry of Economic Affairs.

Applications for the export of military goods to NATO member states and equated-status countries (the EU member states Ireland, Austria and Sweden, together with Australia, Japan and New Zealand) are in principle dealt with by the Ministry of Economic Affairs. An exception to this rule is currently made for Greece and Turkey, both NATO countries. Applications for exports to these two as well as to all other countries are submitted to the Minister of Foreign Affairs for advice. The latter's advice plays an essential role in the decision-taking process on the issue of an export licence by the Ministry of Economic Affairs. If no objections are found to exist with regard to the intended export, the Ministry of Economic Affairs will issue an export licence.

In the case of applications for exports to developing countries appearing on the OECD DAC list, the Minister of Foreign Affairs takes advice from the Minister for Development Co-operation. That advice will then carry weight in the advice given by the Minister of Foreign Affairs to the Minister of Economic Affairs.

In the case of exports of weapons systems being disposed of by the Netherlands armed forces, Parliament is notified in advance by the State Secretary of Defence. In addition, the regular licence procedure has to be completed for the export of surplus matériel as well.

4. Principles of the arms export policy

Applications for licences for the export of military equipment are assessed on a case-by-case basis against the criteria of the arms export policy with due consideration for the nature of the product and its country of final destination and end use. These eight criteria were agreed by the European Councils of Luxembourg (1991) and Lisbon (1992), and they read as follows:

1 Respect for the international commitments of EU member states, in particular the sanctions decreed by the UN Security Council and those decreed by the Community, agreements on non-proliferation and other subjects, as well as other international obligations.

2 The respect of human rights in the country of final destination.

3 The international situation in the country of final destination, as a function of the existence of tensions or armed conflicts.

4 Preservation of regional peace, security and stability.

5 The national security of the member states and of territories whose external relations are the responsibility of a Member State, as well as that of friendly and allied countries.

6 The behaviour of the buyer country with regard to the international community, as regards in particular to its attitude to terrorism, the nature of its alliances and respect for international law.

7 The existence of a risk that the equipment will be diverted within the buyer country or re-exported under undesirable conditions.

8 The compatibility of the arms exports with the technical and economic capacity of the recipient country, taking into account the desirability that states should achieve their legitimate needs of security and defence with the least diversion for armaments of human and economic resources.

5. Information on the Netherlands arms export policy

As explained in the Introduction, the present public report is drafted along the lines as set out in the policy paper on greater transparency in the reporting procedure on exports of military goods, which was subsequently defined in greater detail by the coalition agreement of the present Government.

In addition to this report on Netherlands exports of military goods in 1997, the "Strategic Goods Manual" (Handboek Strategische Goederen) is published by the Central Import and Export Service. This manual is intended for persons, companies and institutes with professional interests in procedures governing imports and exports of strategic goods. It provides users with information on the policy objectives and relevant legislation, procedures and control lists, besides containing a wealth of practical information. In this way the manual increases user awareness of this specific area of policy. The manual is regularly updated in the light of national and international developments in this area.

6. Transparency in armaments and the UN Register on Conventional Arms

In 1991 the General Assembly of the United Nations passed Resolution 46/36 L concerning transparency in armaments. In conjunction with this resolution, the UN Register on Conventional Arms was introduced. The member states were urged to disclose particulars about their imports and exports of seven categories of conventional heavy weapons.

The register contains information on the source country of military goods exports, the transit country if any, and the importing country, together with the size of the goods flows classified in the following categories: tanks, armoured vehicles, heavy artillery systems, combat aircraft, combat helicopters, warships, and missiles and missile launch systems. In addition, there is a separate section for remarks, in which countries can give a more detailed description of the arms and comment on the transfer. Furthermore, the resolution calls on countries to provide information on their own military stocks and on acquisitions resulting from their own manufacturing production.

Each year since 1991 the General Assembly has passed an identical resolution on transparency in armaments. It has become the custom for the Netherlands to take the initiative in proposing this resolution.

In 1993, the United Nations for the first time published particulars on 82 countries. These consisted of returns for the year 1992 covering all the major arms exporting and importing countries, and they yielded an almost complete picture of inter-state transfers of the arms concerned. One third of those countries provide additional information on military stocks and acquisitions resulting from their own manufacturing production.

Since publication started, 90 countries have responded annually and 138 countries once or more with returns for the register. In 1997 the figures were published for 1996. A total of 90 countries provided returns for the arms register, 35 countries provided additional returns on their military stocks, and 31 countries on purchases from their own defence industry.

In 1996 a group of experts was appointed to evaluate the results of the register and investigate possibilities to broaden its scope. For the time being, however, the present register appears to be the maximum attainable in the field of transparency in armaments. In the year 2001, a group of experts will again be appointed to look into possibilities for broadening its scope.

Within the EU, member states exchange data on imports and exports of the seven categories of conventional weapon systems listed in the arms register, for the purpose of a mutual check on consistency. Member states of the European Union present their annual returns to the UN by 30 April at the latest, even though the official reporting date is 31 May. The data are also exchanged within the OSCE. After the reporting date has passed, the EU urges those countries that have not presented any information as yet to do so. Lastly, the Secretary General of the United Nations is notified of the European Union's position regarding transparency in armaments and participation in the UN Register on Conventional Arms, with the purpose of drawing attention to these subjects.

7. The Wassenaar Arrangement

On the multilateral level, developments surrounding arms exports are discussed in the framework of the "Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies" (WA). This forum, which owes its name to the town where, under the presidency of the Netherlands, the negotiations were conducted on the founding of the arrangement, is attended by 33 countries. These countries together account for over 90% of total exports of military goods.

The goal of the WA is to contribute towards regional and international security and stability. The WA pursues this goal by increasing mutual transparency surrounding exports to third parties of arms and of goods that can be used for arms production, and also to promote a greater sense of responsibility in the case of national assessments of applications for licences for exports of military goods. The increase in transparency is intended to enable participant countries to identify at an early stage whether the arms build up of certain countries exceeds their legitimate needs for defence equipment. If that is the case, this should result in participant countries becoming more cautious in their licence issuing policy towards such countries of final destination.

The Wassenaar Arrangement also has a list of military goods, which forms the basis for the national export-monitoring activities of participant countries. In the Netherlands, this control list forms an integral part of the Strategic Goods Export Order 1963. Each revision of the WA list therefore automatically results in an amendment to the above-mentioned Export Order.

In 1997, the first year in which the Wassenaar Arrangement was fully operational, a start was made on putting its principles – as formulated in the Initial Elements of the WA - into practice. For instance, the mutual exchange of information on transactions in certain classes of goods was actively begun, and political and military developments in a number of countries and regions were studied.

The main effort of the Netherlands delegation to the Wassenaar Arrangement in 1997 was focused on further increasing mutual transparency concerning exports of military goods, to enable information to be exchanged not only about exports of the types of heavy weapons systems which are already reported in the framework of the UN arms register, but also about many more if not all goods appearing on the military control list of the WA. A first step in that direction was taken when the Plenary Assembly in December 1997 resolved to initiate the procedure of reporting, on a voluntary basis, denied licence applications including details of the grounds for denial. Another effort, aimed at more intensive involvement of intelligence and security services in the exchange of information on destabilising accumulations of military goods, was realised in full. At the Plenary Assembly held to round off the year's work for 1997, it was formally decided to institute a special WA intelligence information exchange.

8. EU co-operation

EU co-operation on arms exports takes place within what is known as the COARM working group on arms export policy. In this group, within the framework of the Common Foreign and Security Policy the EU member states exchange details on arms exports. In addition, COARM serves as a launching pad for initiatives intended to promote further co-ordination of policy on this matter. In the course of its presidency in 1997, the Netherlands initiated the debate on harmonised application of the eight criteria for the arms export policy. In the spring of 1998, this was followed by initiatives originating from the United Kingdom and France proposing to establish an EU Code of Conduct on Arms Exports. This proposal was ultimately to be adopted in June 1998.

In June 1997, during the Netherlands presidency, the "EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms" was adopted. This programme, which is aimed in particular at combating the illegal trade in small arms, presents a political framework for a range of activities. These are intended on the one hand to reduce the supply of small arms by combating illegal exports from the EU, and on the other hand to reduce the demand for such weapons by assisting other countries in preventing the illicit trafficking in small arms.

The EU ad-hoc POLARM working group on a European armaments policy concentrates on the policy regarding the European defence industry. Since 1997, this group has been addressing the European Commission's report "Implementing European Union strategy on defence related industries" (COM(97)583 def.). In this report, the Commission proposes a set of measures designed to assure an efficient defence industry structure, which it regards as including measures in the area of arms export policy. The Commission envisages proposals to simplify export procedures for products assembled from components produced in various EU member states, by reference to the export regulations of the country where the lead contractor is established or of the country where the final assembly and actual export take place. The Netherlands will analyse the proposals made to this end, because under prevailing policy a Netherlands export licence is also required for components intended for incorporation in goods to be assembled elsewhere.

In 1997, EU arms embargoes[1] were operational vis-à-vis Libya, China, Iraq, Burma, the Democratic Republic of Congo, Sudan, Nigeria, the former Yugoslavia and Afghanistan. In addition, embargoes of the United Nations Security Council were in operation for the following countries: Iraq, Somalia, Libya, Liberia, Angola, Rwanda, Afghanistan and Sierra Leone.

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[1] Within the EU, various interpretations exist as to what constitutes an arms embargo. In practice, the result is that an embargo does not necessarily cover all goods appearing on the list of military goods pertaining to the Annex of the Strategic Goods Implementing Order.

9. Other international developments

In 1997, the Netherlands took an active part in the debate within the United Nations on the proliferation of small arms. Since the autumn of 1997, the Netherlands has been a member of the Group of Interested States, which assists the Secretary General in expanding on initiatives taken by him in this sphere.

10. Recommendations of the Advisory Council on International Issues

In May 1997 the Government asked the Advisory Council on International Issues (Adviesraad Internationale Vraagstukken, AIV) to issue recommendations on the future of conventional arms control. These recommendations would eventually be issued in April 1998, and accordingly they, and the response to them, will be discussed in the 1998 annual report on arms export policy.