

THE STATE OF ARMS TRANSFER CONTROLS IN FINLAND

SaferGlobe Finland has produced an analysis of the Finnish export control system. This was prompted after it discovered that Finland exported weapons and related military equipment to Bahrain in 2011 worth over 3.5 million Euros. SaferGlobe Finland's analysis reveals information not available from official records: only one fourth of these exports have been publicly reported in Finland's official export control statistics. Furthermore, less than half of the exported materiel was processed through the export control system, leading the Finnish peace movement and Amnesty International Finland to ask the National Bureau of Investigation to investigate the Bahrain case.

The Finnish national export control legislation has developed piecemeal over several decades, and is a result both of historic developments and changes to the structure and size of the national defense industry.

Compared to the world's largest arms exporters, Finland's trade is relatively small – there are about 200 export licenses a year, worth around 70 million Euros. However, Finland does belong to the top 25 arms producers and exporters. According to the SaferGlobe arms export database, the value of defense material exported from Finland has doubled since 2000.

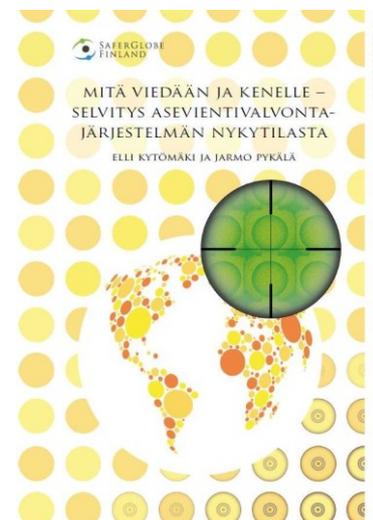
In the past 30 years, Finland has conducted three major reviews of its export control legislation. The most recent law was adopted in 2012, following the EU's new directive on intra-Community transfers of defense-related products. The new Finnish law is more comprehensive than its predecessors and in general it is working well.

Export License System

Export licensing authority in Finland is divided between official agencies depending on the type of material, intended use of the exported items,

as well as the value and political importance of the intended transfer. The licensing procedures are subject to two alternative laws: exports of defence materials fall under the Act on the Export and Transit of Defence Materiel, while commercial permits for weapons other than those of war fall under the Firearms Law, together with relevant parts, components and ammunition.

The primary authority in charge of export licensing for defence material is the Ministry of Defence (MOD). It has the authority to take decisions on all exports to the EEA-countries (European Economic Area) and low political risk countries (Switzerland, Australia, New Zealand, Japan, USA and Canada). The MOD consults the Ministry of Foreign Affairs (MFA) on licence applications to other countries for advice on whether there are any foreign and security policy related problems related to the application. In addition, export applications for battle material (ML categories 1-10 and 12) worth over million euros is subject to Governmental approval.



Mitä viedään ja kenelle – Selvitys asevientivalvontajärjestelmän nykytilasta

By Elli Kytömäki and Jarmo Pykälä

Background Paper (5), SaferGlobe Finland, 2013.

Pages: 36, ISBN: 978-952-6679-05-1 (pdf).

Downloadable at www.saferglobe.fi

SaferGlobe Finland is an independent peace and security research network, which studies and develops tools for the promotion of lasting peace and security.

All export licence applications are also discussed at a monthly meeting of the different authorities. The meeting, chaired by the MoD, is attended by representatives of the MFA, the Police Board, the Defence Command, the Finnish Security Intelligence Service (Supo) and Customs. Commercial exports under the Firearms Law are processed by the National Police Board. Dual-use technology exports under EU directive are processed by the MFA Commercial section.

Export control systems are complex entities, the functioning of which is determined by existing legislation and regulations, but also the practices of export control officials, their co-ordination and co-operation and the structure of the national defence industry. The ever-changing international environment sets continuous challenges to the development of national control systems. An effective export control system is both comprehensive and detailed, effective, predictable and reactive.

Military or civilian material

The division of authority between different ministries presents implementation challenges to both the defence industry and the government authorities. Companies often find it hard to predict the procedures and length of the licensing process, because the responsible authority – Ministry of Defence or the National Police Board – is determined case-by-case. There is no list of national defence products or categorization that could be used to define the division of responsibilities.

Without clear criteria, implemented by an independent committee of experts, it is sometimes difficult to determine, which products should be licensed as defence material and which as civilian weapons. The division has both political and practical consequences: for example in the case of exports to Bahrain, the licence applications were all below the threshold of one million euros and were submitted to different export licensing authorities. This resulted in no application being subjected to Governmental approval and no one authority having visibility of the total amount of exports to Bahrain.

Weak transparency and risk-assessment

Transparency of Finnish export licensing is currently quite limited. The system is based on hard paper copy applications. The licences handled by the MoD are public, but those of the National Police Board are restricted and not accessible to other licensing bodies or the general public. This hinders co-ordination between the different authorities, and prevents civil society from following the development of Finnish arms export policy.

Even though primarily in charge of licences for civilian weapons, the National Police Board authorizes exports also to armies and security forces. In these cases the transparency principle followed by the Ministry of Defence should be extended to cover also the National Police Board.

Because of the current procedures, technical analysis of licence applications is combined with the political risk assessment process. This significantly limits the scope of the risk assessment and slows down the authorization process. The authority in charge of risk assessments is the Ministry of Foreign Affairs. It does not always have sufficient expertise to make comprehensive and accurate analysis, and it does not have access to all relevant information.

Cooperation between the different authorities appears to work well, but is based on informal practices and personal relations between the people in charge. Frequent rotation amongst the responsible officers prevents the accumulation of expert knowledge and limits the quality of export controls. The current international trend seems to be towards centralized, specialist national export control agencies or departments, responsible for all licences for conventional arms and dual-use items and consistently consulting other government departments. Centralization is resource-efficient and has been seen to improve relations also with defence industry actors.

Control and monitoring

A particular weakness of the Finnish export control system is the ability to react in cases where the situation in the recipient country

changes and licences need to be revoked, or licensing policy needs to change to reflect the new situation. This is what seems to have happened also with regard to Bahrain: as a result of the Arab Spring, Finland decided to review all granted export licences to the Middle East and North Africa. However, this was done only in February 2011, when unrest in the region was already widely spread.

Without an electronic, centralized system of approved and denied licences, it is difficult for authorities to have a comprehensive picture of all export licences and react to possible changes. Export control authorities do not have up-to-date information about total exports to destinations at the time when risk assessment is made, as statistics – which cover only MoD licences – are compiled only 8-11 months after the end of each calendar year. Creating a centralized electronic database of licence applications would improve effectiveness and increase transparency.

Responsibility to oversee actual exports lies with Customs. Licensing authorities do not systematically monitor actual transfers or the end use of exported products. For example the Police Board does not always require end user certificates as part of the licence request. This creates a situation, where Finnish arms can potentially be exported and re-exported to countries and regions, where they are used in human rights violations. For example we found Finnish arms re-exported from Italy to several countries during 2009-2012. Lack of post-authorization controls seems to be more a result of lack of procedures and system than lack of resources.

Finland has not established a National SALW Commission, recommended by the UN Programme of Action on SALW, which would oversee the implementation of national SALW policies, research, training and development. There is no operative criminal investigation expertise to combat illicit arms trade.