



NORWAY'S CONTROLS ON ARMS EXPORTS TO CHINA

MARK BROMLEY

I. Brief outline of Norway's export control system

The central piece of legislation for Norway's controls on exports of military goods and dual-use items is Act no. 93, Relating to control of the export of strategic goods, services and technology (Export Control Act) of 18 December 1987.¹ A 19 June 2013 Ministry of Foreign Affairs (MFA) white paper sets out licensing policy for military goods and dual-use items, while List I (weapons and military materiel) and List II of the act (dual-use goods) define controlled items.² Controls on exports of military items are divided between controls on Category A and Category B materiel.³ The MFA is responsible for issuing and refusing licenses for the export of military goods and dual-use items.⁴ In particular cases, other government departments may be consulted, including the Ministry of Finance, the Ministry of Defence, customs authorities and the police, although the final decision rests with the MFA.⁵ In particularly sensitive cases, the final decision on whether to permit an export may be taken by a secretary of state or minister.⁶ Applications for licences to export dual-use goods to military end users are dealt with in the same way as exports of military goods.⁷

Decision making on whether to grant or deny an export licence is framed by a 1959 government statement that prohibits arms exports 'to areas where there is a war or the threat of war, or to countries where there is a civil war'

¹ Norwegian Ministry of Foreign Affairs, 'Eksport av forsvarsmateriell fra Norge i 2012, eksportkontroll og internasjonalt ikke-spredningssamarbeid' [Exports of defence materiel from Norway in 2012, export control and international non-proliferation cooperation], 4 Oct. 2013, p. 10.

² Norwegian Ministry of Foreign Affairs (note 1), p. 10.

³ Category A materiel consists of 'arms and ammunition'. Category B materiel consists of 'other military material not covered by Category A'. Norwegian Ministry of Foreign Affairs (note 1), p. 8.

⁴ Norwegian Ministry of Foreign Affairs (note 1), p. 10.

⁵ Amnesty International Norway and Norwegian Church Aid, 'Bullets without borders: improving control and oversight over Norwegian arms production, exports and investments', 2006, p. 41.

⁶ Amnesty International Norway and Norwegian Church Aid (note 5), p. 41.

⁷ In addition, under a series of 'catch-all clauses', goods not covered by List I or List II—but which are being exported 'for military purposes' to areas where there is war or the threat of war, or to countries where there is civil war or which are subject to a United Nations arms embargo or where there are 'serious implications' for Norwegian foreign policy—require an export licence. Norwegian Ministry of Foreign Affairs, Report no. 29 to the Storting (2007–2008), 'Export of defence materiel from Norway in 2007, export control and international non-proliferation cooperation', 6 June 2008, pp. 6, 8; and Norwegian Ministry of Foreign Affairs official, Interview with author, 18 Mar. 2014.

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SUMMARY

● Despite the imposition of Western arms embargoes on China in 1989, China's efforts to modernize its defence forces' industrial and technological capabilities have continued to benefit from the transfer of military-relevant Western goods and technologies, including military goods, dual-use items (goods and technologies that have the potential to be used in both civilian and military products) and other non-controlled items.

This Background Paper details the policies of Norway on transfers of military-related technologies to China. As such, the paper provides additional context in support of the analysis provided in SIPRI Policy Paper 43 on transfers of military-related technologies to China. The paper notes that Norway has not formally adopted an arms embargo on China. However, a range of issues—including the application of national export criteria on human rights and conflict prevention—ensure that Norway's exports of military-relevant technologies to China are extremely limited.



and a 1997 clarification that assessments should include ‘issues relating to democratic rights and respect for fundamental human rights’.⁸ Norwegian decision making is also guided by the criteria of the European Union (EU) Common Position on Arms Exports and consensus decisions of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-use Goods and Technologies.⁹ In addition, all United Nations arms embargoes and certain EU and Organization for Security and Co-operation in Europe (OSCE) embargoes are implemented via individual regulations.¹⁰ Other EU and OSCE embargoes are implemented via existing export control regulations.¹¹ In 2012 the Norwegian MFA began using a new checklist to assess the internal situation in a recipient country as part of its export licensing assessment process.¹²

II. National controls on exports to China

Despite aligning itself with the EU Common Position, Norway does not apply the EU arms embargo on China. This reflects both the non-binding nature of the EU embargo on China and Norway’s unwillingness to adopt unilateral restrictions on transfers to particular countries.¹³ In addition, the Norwegian Government has never made any public statements concerning its views on lifting or retaining the EU arms embargo on China.

Application of national export controls on transfers to China

Since 2004 no applications have been submitted for exports of military goods to China or of dual-use items to the Chinese military, so the question of government decision making in this area is hypothetical. However, the application of Norway’s export control criteria means that it would be unlikely to grant licences for such exports.¹⁴ Depending on the type of goods in question, any decisions would likely be driven by concerns relating to regional stability and human rights.¹⁵ Decisions would also take account of the EU arms embargo on China, but this would not be a primary consideration for Norway’s decision making.¹⁶ Exports of dual-use items to civilian end users in China do take place and are assessed in relation to a number of factors, including the risk that the items concerned will be diverted to other unintended uses and end users.¹⁷

⁸ Norwegian Ministry of Foreign Affairs (note 1), p. 18.

⁹ Since 2004 Norway has also taken part in the exchange of information on licence denials under the EU Code of Conduct and its 2008 replacement, the EU Common Position. Norwegian Ministry of Foreign Affairs (note 7).

¹⁰ E.g. the EU arms embargoes on Myanmar, Syria and Zimbabwe have all been implemented by individual regulations. Norwegian Ministry of Foreign Affairs, ‘Eksport av forsvarsmateriell fra Norge i 2011, eksportkontroll og internasjonalt ikke-spredningssamarbeid’ [Exports of defence materiel from Norway in 2011, export control and international non-proliferation cooperation], 16 Nov. 2012, <<http://www.regjeringen.no/nb/dep/ud/dok/regpubl/stmeld/2012-2013/meldst-8-2012--2013.html?id=707794>>, p. 12.

¹¹ Norwegian Ministry of Foreign Affairs (note 1), p. 10.

¹² Norwegian Ministry of Foreign Affairs (note 1), pp. 10–11.

¹³ Norwegian Ministry of Foreign Affairs officials, Interview with author, 18 Mar. 2014.

¹⁴ Norwegian Ministry of Foreign Affairs official, Interview with author, 18 Mar. 2014.

¹⁵ Norwegian Ministry of Foreign Affairs official, Interview with author, 18 Mar. 2014.

¹⁶ Norwegian Ministry of Foreign Affairs official, Interview with author, 18 Mar. 2014.

¹⁷ Norwegian Ministry of Foreign Affairs official, Interview with author, 18 Mar. 2014.



What is being licensed and exported to China?

No transfers of major conventional weapons from Norway to China have occurred since 1950.¹⁸ According to Norway's annual reports on arms exports, no licences have been granted for the export of military goods to China or of dual-use items to the Chinese military since 1998, the first year for which data is available.¹⁹ Norway has granted licences for the export of Category B goods to Hong Kong and Macau covering the transfer of night vision equipment ('nattutstyr') and light amplifiers ('lysforsterkere').²⁰ Norway does not publish information on issued or denied licences for exports of dual-use items to non-military end users.

The view of industry

Based on available information on export licence applications, there appears to be little activity among Norwegian companies in regard to the supply of military goods to China or dual-use items to the Chinese military. This position is likely influenced by an awareness of the restrictiveness of Norway's policies with regard to military-related exports to China and the likelihood that licence applications would be denied.²¹ In 2010 media reports stated that the Norwegian electronics manufacturer Sensoror was seeking to supply products based on micro-electromechanical systems (MEMS) technology to the Chinese and Russian militaries.²² Sensors and components based on MEMS technology have been widely used in precision-guided munitions since the early 2000s and have become the 'industry standard' in recent years.²³ According to Sensoror, its products are one of the few available on the international market that are not subject to US International Traffic in Arms Regulations (ITAR) because they do not contain any US technology.²⁴ Sensoror has stated that China has expressed interest in its products.²⁵ According to *Jane's Defence Weekly*, Sensoror technology would help Chinese guided munitions 'to achieve levels of performance and accuracy comparable to their Western counterparts'.²⁶

¹⁸ SIPRI Arms Transfers Database, <<http://www.sipri.org/databases/armstransfers>>.

¹⁹ One licence was denied in 2004. However, it is unclear what goods or end users were involved or the reasons for the denial being issued.

²⁰ Norwegian Ministry of Foreign Affairs, 'Eksport av forsvarsmateriell fra Norge i 2005, eksportkontroll og internasjonalt ikke-spredningssamarbeid' [Exports of defence materiel from Norway in 2005, export control and international non-proliferation cooperation], 2 June 2006, p. 33; Norwegian Ministry of Foreign Affairs, 'Eksport av forsvarsmateriell fra Norge i 2010, eksportkontroll og internasjonalt ikke-spredningssamarbeid' [Exports of defence materiel from Norway in 2010, export control and international non-proliferation cooperation], 10 June 2011, p. 39; and Norwegian Ministry of Foreign Affairs, 'Eksport av forsvarsmateriell fra Norge i 2011, eksportkontroll og internasjonalt ikke-spredningssamarbeid' [Exports of defence materiel from Norway in 2011, export control and international non-proliferation cooperation], 16 Nov. 2012, p. 45.

²¹ Norwegian Ministry of Foreign Affairs official, Interview with author, 18 Mar. 2014.

²² Johnson, R. F., 'Norwegian MEMS technology could transform accuracy of Chinese missiles', *Jane's Defence Weekly*, 28 May 2010.

²³ Wilson, J. R., 'Smart munitions development relies heavily on MEMS technology', *Military & Aerospace Electronics*, vol. 14, no. 1 (Jan. 2003); and Johnson (note 22).

²⁴ Johnson (note 22); and Sensoror, <<http://www.sensoror.com/惯性产品.aspx>>.

²⁵ 'Sensoror shifts to high-end applications', *South China Morning Post*, 5 Feb. 2010; and Johnson, R. F., 'China closer to First World standards in defense electronics', *Washington Times*, 27 June 2010.

²⁶ Johnson (note 22).

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SIPRI BACKGROUND PAPER

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