
Een Schoon Geweten, oder Bahn Frei für Waffenschmieden:

A Clear Conscience, or Go-ahead for Weaponsmiths: Investigating compliance with the EU Common Position on Arms Export through a comparison of Dutch and German arms export policy-subsystems

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Preface

In today's modern world, due to continually evolving technologies, images from across the globe are cast into our lives making everything seem so much closer. To cope, we often choose to turn away from processes we deem to have no control over, largely trusting our governments to do the responsible thing. One such seemingly inescapable evil is war, with the transfer of arms to conflict regions exacerbating violence and enabling strongmen by means of force. However, in recent decades, efforts have been made by states to regulate global arms transfers to mitigate its worst effects. The Netherlands and in prolongation the EU, prides itself in committing to the most responsible humanitarian standards when assessing arms exports. Yet, EU-member states continue to transfer arms to conflict regions, contrary to its own legally binding Common Position. Making us complicit in the actions of those strongmen, such as Saudi-Arabia, whose involvement in Yemen has led to a terrible humanitarian crisis. The puzzle at hand then is not a question of what is responsible, but rather how responsibility is practiced by states in the international system. "Een schoon geweten, oder Bahn Frei für Waffenschmieden" is my contribution to this scientific and humanitarian discourse. In addition, I thank those who have supported me in making it happen.

Abstract

In her speech at the Berlin Security Conference 2018, the German Minister of Defense stated that Germany and the Netherlands followed the same inner compass in defense and security matters. Yet, despite their commitment to shared principles and the legally binding EU Common Position on Arms Export Control, there have been diverging outcomes when exporting arms to controversial destinations. Through conducting a most-similar comparative case study and approaching the arms export control policies of Germany and the Netherlands as policy subsystems, this study concludes that divergence between both states' arms export control policies is limited, yet does not exclude more diverging outcomes. This is due to geopolitical weight imposing different roles on more and less prominent countries. In extension, more prominent EU-members perceive a strong defense industry, albeit in collaboration with other EU members, to be a prerequisite for themselves and in prolongation the EU, to project power on the global stage. While less prominent EU-states with a modest defense industry have less of an urge to do so as they have developed other means to position themselves in the world order. This combination of factors leads to more prominent EU-members interpreting and implementing arms export control measures less restrictively than less prominent countries. Calling into question the effectiveness of the EU Common Position in harmonizing EU-members' arms export control and its ability to establish a more responsible humanitarian regime. In extension, also casting doubt on the nature of the regime and the EU itself.

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List of Abbreviations

ATT	Arms Trade Treaty
BAE	British Aerospace
BICC	Bonn International Center for Conversion
CDA	Christen Democratisch Appel
CDU	Christlich Demokratische Partei Deutschlands
CFSP	Common Foreign and Security Policy
CMP	Commisariaat Militaire Productie
COARM	Council Working Party on Conventional Arms Exports
COCOM	Coordinating Committee for Multilateral Export Controls
CSDP	Common Security and Defense Policy
CSU	Christlich-Soziale Union
CU	Christen Unie
D66	Democraten 66
DSNS	Damen Schelde Naval Shipyards
EADS	European Aeronautic Defense and Space company
EU	European Union
FDP	Freie Demokratische Partei
FvD	Forum voor Democratie
GDP	Gross Domestic Product
IR	International Relations
MSSD	Most-Similar System Design
NATO	North Atlantic Treaty Organization
NGO	Non-Governmental Organization
OEM	Original Equipment Manufacture
PvdA	Partij van de Arbeid
PVV	Partij voor Vrijheid
RNLN	Royal Netherlands Navy
SIPRI	Stockholm International Peace Research Institute
SP	Socialistische Partij
SPD	Sozialdemokratische Partei Deutschlands
UAE	United Arab Emirates
UK	United Kingdom
USA	United States of America
UN	United Nations
VVD	Volkspartij voor Vrijheid en Democratie

1. Introduction

Since the end of the Cold War, there has been a gradual shift from an openly declared pursuit of self interest in the rhetoric of Western states, to a growing emphasis on commitment to human rights and moral obligations. As part of this ethical discourse, many Western governments have committed themselves to more restrictive arms export control, taking into account human rights when deciding on export licenses for military goods. However, as living up to these commitments might harm their national economic and security interests, arms exports are often a politically sensitive issue (Bromley, 2008, 2012; Perkins & Neumayer, 2010; Hansen & Marsh, 2017). This is especially true for members of the European Union (EU), often transposed as Europe, many of which have traditionally been prolific arms exporters and currently account for twenty-six percent of global arms sales, second only to the United States (Wezeman et al, 2020). All while they attitudinize themselves with upholding the highest standards of arms export controls and promoting responsibility and transparency (EEAS, 2019).

Cooperation on arms export control between members of the European Union began in the aftermath of the First Gulf War to prevent a situation of European troops being confronted by an enemy outfitted with European arms to happen again. Together with humanitarian considerations, these efforts culminated in the 2008 EU Common Position on Arms Export Control, a legally-binding instrument governing export control of conventional military materials including small arms and dual-use goods. From here on referred to as the Common Position. It spells out eight criteria reflecting EU values with respect to: international obligations, human rights, internal and regional stability, national security of exporters, commitment by recipients to international law and the proliferation of arms and sensitive technology (Hansen & Marsh, 2016). In addition, it promotes the convergence of member states arms export control through a system of information sharing and the obligation to consult another when similar export applications had previously been denied by another EU-member.

In recent years, EU arms exporting states have indeed progressed in conforming to normative pressures and claim full commitment to the Common Position and on

the international level the Arms Trade Treaty (ATT). Yet, although states commit themselves to policies in line with humanitarian norms, compliance is a whole different thing and mixed at best (Erickson, 2015). This policy-practice gap concerning EU's conduct on arms export controls has often been touched upon by researchers from the Stockholm International Peace Research Institute (SIPRI). In consecutive studies, concern is shown with the way the criteria of the Common Position are interpreted by national governments and the lack of harmonization of member's policy practices (Bromley, 2008, 2012). These discrepancies painfully came to light during the civil war in Libya with Gadhafi displaying over a billion Euros worth of arms originating from EU-members. All despite Gaddafi's problematic human rights record as dictator, having been subject to EU and UN arms embargo's for supporting terrorist organizations up to 2004 (Hansen & Marsh, 2016). Notwithstanding the Common Position, European arms continue fueling conflict, exacerbate humanitarian crises and in the case of Yemen, may even be contribute to international war crimes.

The underlying issue is that decision-making in arms export licensing remains under the states' national competence and no formal procedure exists at the EU level to sanction non-compliance (Bromley & Maletta, 2018). This stirs up allegations that this arrangement spurs states to prioritize their material interests over the morals they preach, constituting a form of organized hypocrisy. A term used to describe a practice of frequent violation of institutionalized norms (Perkins & Neumayer, 2010; Hansen & Marsh, 2016). This subsequently hampers the effectiveness of the Common Position in its goal to minimize the negative consequences of arms transfers and overall hurts the EU' credibility as a norm defining global power (Besch & Oppenheim, 2019).

Nevertheless, the EU remains committed to the Common Position, indicating that member states anticipate some gain outweighing the costs of complying with the regime. According to Erickson, states commit to responsible arms export control to improve or maintain their international reputation as good citizen (2015). However, without full compliance by all EU-members, this benefit will not materialize in the future. Those that play by the rules will resent the lack of level playing field caused by others taking a less restrictive stance on arms export control. Subsequently, countries that feel let down are also tempted to loosen their arms export control, eroding progression towards a more responsible arms export regime. In

addition, Erickson believes that the growing discrepancy in compliance with international arms export control agreements is attributable to difference in government transparency and civil engagement. Her concept of 'social reputation' argues that policymakers in states with higher levels of transparency and civic engagement are more sensitive to threat of scandal hurting their domestic reputation and would therefore be more inclined to comply with the Common Position.

However, attributing the differences in compliance foremost to differing levels of transparency and civil engagement begs questioning. As EU-members, especially those who export arms, are well developed civil societies with largely similar democratic checks and balances (Transparency.org, 2018) (OECD, 2019). Hinting that Erickson's theory is too generic, unable to explain the observed variance in compliance and that there must be another spanner in the works. EU-members are of diverse make-up, and although committed to democracy and same EU regulations, differ culturally, compete with each other over economic interests and occupy different roles on the global stage. These factors, which seem left out of the 'social reputation' argument, could potentially better explain the variance between EU member states' arms export control practices and the commitment of Western states their commitment to responsible arms export control.

To find out, this thesis will conduct a comparative study of the Dutch and German arms export control policy along a policy-subsystem approach employing a most-similar research design in which two cases appear very similar yet demonstrate surprisingly different outcomes (Gerring, 2008). The Netherlands and Germany operate along a similar humanitarian discourse and are known as strong proponents of multilateral arms control cooperation, all the while belonging to the top arms exporting countries in the world. Being the fourth and tenth largest exporters of major conventional arms from 2013 to 2017, with a 5.8 percent and 2.1 percent share of global arm sales respectively (Wezeman et al, 2018). As neighboring countries, Germany and the Netherlands have a shared cultural heritage and ethnolinguistic background. Both are modern parliamentary democracies with likeminded political parties, subject to a diverse press and independent courts. Plus, they are heavily intertwined global economic powers sharing the same currency, are committed to international treaties and are members of both the North Atlantic Treaty Organization (NATO) and the EU. Enshrining these similarities, the former German Minister for Defense

Mrs. von der Leyen stated in her address to open the Berlin Security Conference 2018, that Germany and the Netherlands, with respect to security and defense, were guided by the same inner compass (Leyen, 2018).

Yet despite these similarities, the Netherlands and Germany have come to diverging decisions regarding the export of weapons towards countries with critical scores concerning the criteria set out in the Common Position. Notably in 2012, when Indonesia approached the Netherlands to buy 200 surplus tanks. The government was in favor of selling, but parliament had reservations due Indonesia's poor human rights record amongst other things. As decision-making in the Netherlands floundered, Indonesia turned to Germany that had similar tanks for sale. Germany quickly accepted a deal and granted the export licensees (Trouw, 2012). Second, after the outbreak of the Yemenite war, the Netherlands imposed a de-facto arms embargo to all countries involved. Germany, ignoring widespread demands to do the same, became a major supplier of arms to Saudi Arabia and its allies. Only to be halted temporarily after the public outcry that condemned the murder of the journalist Jamal Khashoggi by Saudi operatives in October 2018. (der Spiegel, 2018).

Are these diverging outcomes mere incidents, inadvertently suggesting that Germany and the Netherlands substantially differ in applying the EU-policies when assessing arms export applications? Or is this indicative of other factors effecting compliance of EU member states with the Common Position and what does this reveal about commitment to 'responsible' arms exports in general? This has led to the following question to stand central in this thesis: *a) to what extent and considerations have the Netherlands and Germany come to diverging policy when licensing arms exports along the EU Common Position on Arms Export Control and b) what does this reveal about the nature and effectiveness of the regime?*

In recent years the European Union has come under increasing pressure, internally through Brexit, externally by upheavals in the Middle-East and shift in the global balance of power. In addition, the EU-US relationship has become increasingly strained with the current US President questioning its commitment to transatlantic cooperation. However, it is unclear how this might affect future European cooperation on security and arms export control. To prepare for these and future developments, it is important for policy-makers and other

relevant actors to understand how EU member states behave with regard to arms export control, particularly towards controversial destinations. The findings in this thesis could help better understand the workings of the Common Position as an international regime and potentially provide useful insights for improving EU arms export control. In addition, as traditional theoretical perspectives leave a lot to be desired in their explanation of the observed commitment-compliance gap, this thesis may prove the applicability of Erickson's reputational argument and the usefulness of employing a policy subsystem approach to compare arms export control policies as a means of understanding the Common Position as an international regime.

This thesis will proceed by first providing a background chapter on the development of arms export control and the EU's attempt to harmonize policies by means of the Common Position. Secondly, chapter three will consist of the theoretical framework introducing the competing analytical perspectives on international arms export control agreements with an emphasis on the contention between material and ideational factors at play. Then expand on Erickson's 'social reputation' argument and overarching theories on regime compliance. The subsequent chapters will then address the comparative case study of the Dutch and German Arms Export policies. First, by introducing the methodology in chapter four and the subsequent results in chapter five and analysis in chapter six. The final chapter will consist of the conclusion and ensuing discussion on the nature and effectiveness EU Common Position on Arms Export Control.

2. Historic Background

Despite a history full of violence, there have always been attempts to secure a more peaceful world, limiting the destructive consequences of war. One of these efforts has been to limit the number of weapons and the ways in which they can be used. This was thought to be achieved either through *disarmament*, meaning a reduction of the number of weapons maintained by a state. Or *arms control*, which refers to agreements made between states, restraining each other's military capabilities to decrease the likelihood and scope of war (Sheehan, 1992). The subsequent progression towards more responsible multilateral arms export control are the subject of the following chapter.

2.1 Cold War arms export control

In the aftermath of the Second World War, the US and their allies had established the Coordinating Committee for Multilateral Export Controls (COCOM) in 1949, in order to obstruct the export of strategic goods and technology to the communist bloc. This was done through an agreed upon list of sensitive goods deemed unsuitable for export, streamlining the individual national export controls. The agreement was not legally binding however, and the implementation and enforcement remained a national affair (Erickson, 2015; Voetelink, 2017). Yet, it was deemed relatively effective, as violation risked being blacklisted by the US. But also unbeloved by some allied states who viewed it as an economic tool enabling the US to keep western arms exporting competitors at a disadvantage (Erickson, 2015).

It wasn't until 1976 that humanitarian considerations regarding arms export control were first recorded when mentioned by then presidential nominee Jimmy Carter. He argued that the US could not be both *"the world's leading champion of peace and the world's leading supplier of weapons of war"* (Carter, 1976). This came during the public outcry over the Vietnam War and reporting on the US government overlooking the human rights abuses by state governments they supported in the fight against communism. Once in office, the Carter administration pushed for unilateral policy changes and multilateral negotiations to reduce the spread of weapons, indicating that human rights violations would be an

important consideration in the decision-making process. However, the successive Reagan administration refused to reduce sales over human rights considerations, ending Carter's push for a more responsible global arms trade (Erickson, 2015).

2.2 Post-Cold War arms export control

With the disintegration of the Soviet Union in the early 90s, the clear East-West rivalry which had defined the supplier-recipient relationship in the global arms trade had come to an end. The world lay at a strategic and political crossroads, with some optimistic on the prospect of global disarmament. Considering that there was no more need to influence the global balance of power through the proliferation of weapons. Opening the possibility for multilateral agreements without the previously thwarting ideological divide. However, new challenges emerged as the breakup of the Soviet Union led to a surplus of easily available and cheap conventional weapons spilling over into conflict regions. Together with the drastic cut in defense budgets through the disappearance of the threat of the Warsaw Pact. This led to more than three dozen significant arms-supplying nations vying for customers in an oversaturated arms market. As such, producers struggling to stay afloat sought to export to any available destination, making export restraints seem impractical and damaging to the economic and military security of arms producing states (Hartung, 1992).

Within this new environment, an attempt was put forward by the Canadian government in 1991, to come to multilateral exports control to curb the unrestrained global transfer of weapons. After it was revealed that during the First Gulf War, coalition forces had come up against troops equipped with Western produced arms, which had covertly been sold to Iraq during the 80s (Erickson, 2015). Throughout that year, the public call for more restrictive export controls grew with many world leaders urging for restraint and a pause of destabilizing arms sales to the Middle East (Hartung, 1992). However, the only concrete outcome was the UN Register of Conventional Arms, which was intended to build global confidence and provide insight into the accumulation of conventional weapons. However, this new era also meant a dissipating relevance for COCOM. As such, it was replaced by the 1996 Wassenaar Arrangement, stipulating increased transparency, including so called dual-use equipment. Yet without any hardened mechanisms, it was considered more of a

showpiece without any real obligations. Increased transparency did however produce much needed data, providing the foundation of future attempts at more concrete export control measures (Erickson, 2015).

2.3 European arms export control

With the events of the early 90s and the fast-changing global order, there were renewed efforts by the now European Union, to develop a common arms export control policy. Leading amongst these was the EU Code of Conduct on Arms Export (EU Code), as part of the Common Foreign and Security Policy (CFSP). This push for harmonization was motivated by three factors. Firstly, better coordinated policies would help the European defense industry to consolidate and expand. Secondly, it would help the EU to address sensitive human rights aspects responding to public calls for a more ethical foreign policy. But most significantly, to prevent European troops being confronted by European weapons. In order to do this, the European Council directed the Working Party on Conventional Arms Exports (COARM) to compare the different national practices and arms exports and discuss possibilities for the harmonization of policies (Bromley & Brzoska, 2008). This resulted in a code of conduct consisting of eight criteria against which EU members agreed to assess their arms exports, making up the foundation of today's Common Position.

Adopted in 1998, as an EU Council declaration, the EU Code was not legally binding and mostly regarded as a minimum for restraint and to promote future policy convergence within the framework of the CFSP. It required members to deny export licenses to destinations in violation with criteria 1-4 and to consider the factors listed from 5-8 when

Summarization of the criteria of the EU Common Position on Arms Export Control

1. Respect for the international obligations and commitments of member states, in particular the sanctions adopted by the United Nations Security Council or the European Union, agreements on non-proliferation and other subjects, as well as other international obligations.
2. Respect for human rights in the country of final destination as well as respect by that country of international humanitarian law.
3. Internal 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. National security of 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. Behaviour of the buyer country with regard to the international community, in particular its attitude to terrorism, the nature of its alliances and its respect for international law.
7. Existence of a risk that the military technology or equipment will be diverted within the buyer country or re-exported under undesirable conditions.
8. Compatibility of the exports of the military technology or equipment with the technical and economic capacity of the recipient country, taking into account the desirability that states should meet their legitimate security and defence needs with the least diversion of human and economic resources for armaments.

Source: Council Common Position, 2008

assessing applications. Moreover, the EU Code outlined procedures intended to ensure more consistent interpretation of the criteria. This included the commitment to exchange confidential information on denied applications and share data on their arms exports. Member states also agreed to consult with other member countries when considering the application of an export license which is essentially identical to a license previously denied by another state. In addition, all this data is compiled in annual EU reports which have been publicly accessible since 1999. From here on the EU Code developed further with members state's officials continuing to meet regularly within COARM to exchange views on sensitive destination countries and to review the interpretation of the criteria and execution of national policies. This has led to several adjustments. First, a regularly updated list of military equipment – the EU Common Military List – to which the EU Code should be applied was established. Second, a database with export denials was setup by COARM for EU member states to consult when assessing export applications. Third, the annual EU reports became more extensive. Fourth, a user's guide was established to assist countries with the execution of the EU Code. This included extra clarification of the criteria and how they should be interpreted. Fifth, the user's guide had EU members commit to applying the criteria of the EU code to arms transit licenses and licensed weapons production (Bromley, 2012)

In 2008, the EU Code was replaced with the legally binding EU Common Position on Arms Exports, including the changes made reflected in the user's guide. For the first time, it was now clear which activities are subject to EU arms export regulations, including the licensed production; brokering; transit and transshipment; and intangible transfers of software and technology. Moreover, several adjustments were made to the strengthen language on international and humanitarian law and provide extra clarification on some of the criteria (Bromley, 2012). The language of the Common Position reflects the global best in commitment to arms export control and the EU's stated commitment to the promotion of human rights and global stability.

2.4 Global Responsible Arms Export Control

This shift to a more responsible arms export control with concern for human rights and increased restraint was not limited to the EU alone. By the end of the 1990s, US congress passed legislation requiring the president to seek an international agreement on arms export control, including criteria to limit sales to human rights violators. Together with progress made by the EU, this galvanized international support for legally binding arms export controls, culminating in 2013 with the UN Arms Trade Treaty (ATT) coming into force. The treaty establishes common standards for the international trade of conventional weapons and attempts to limit illicit transfers (Bauer & Bromley, 2015). Under the ATT, states are required to assess if potential arms exports *“contribute to or undermine peace and security”* (Kimball, 2016), prohibiting exports to embargoed countries and those using weapons to:

“commit genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes”. Among other, it also requires states to *“establish and maintain a national control system, including a national control list”* and *“designate competent national authorities in order to have an effective and transparent national control system regulating the transfer of conventional arms”* (Kimball, 2016).

With over a hundred countries committed to the ATT, and more moving towards accession, a huge step has been made towards global humanitarian regulations on arms transfers. However, concern over its effectiveness has increased with the US withdrawing its commitment and other key arms importers and suppliers such as China, Egypt, India, Russia and Saudi-Arabia refusing to commit. Noteworthy leaving the conflicted Middle-East region and other hotbeds sidelined (thearmstradetreaty.org, 2020). Questioning the likelihood of further progression towards a more responsible humanitarian global arms export regime.

3. Theoretical Framework

With a trend towards a more responsible arms trade and over a hundred states supporting the Arms Trade Treaty, it now stands to question why states do so. As for long, arms supplying states have neither seen any security or economic reason to commit to multilateral 'responsible' arms export control. This change not only provides an interesting empirical puzzle on the practice of arms export control, but also addresses long-standing questions within the International Relations debate on the interplay of material and idealist motivations in the behavior states and their relation to multilateral regimes. The following section will explore a number of concepts and theories on arms export control.

3.1. Regimes and compliance

A regime can be defined as a mode of rule or management, a regular pattern of behavior forming a way of operating or organizing a system. As such it is often used in a descriptive way to group a range of state behaviors on a specific issue in international relations. Regimes emerge from a convergence of shared interests between states in tackling a shared problem for which they are willing to forego a degree of sovereignty. Its effectiveness, or strength, is determined by the extent to which members abide by the set norms and rules, and the level to which it fulfills expectations (Orr, 2006). Particularly in instances where short-term self-interests collide with regime rules (Haggard & Simmons, 1987).

The regime at hand here is the EU Common Position on arms export control, more formally known as the 'Council Common Position 2008/944/SFSP' of 8th December 2008, which defines the common rules governing control of export of military technology and equipment within the EU (EU, 2008). Arms export control also affects economic-, competition-, foreign-, security and defense policies. The last one being inherently linked to national sovereignty and thus often at odds with member states' commitment to the EU regime. This has led to several inconsistencies in the compliance with the common position, as previously mentioned, casting doubt over the 'strength' of the regime in its ability to affect the behavior of its members.

Following much of the literature, compliance is defined as conformity to rules or norms, and more specifically within this context, as described by Young (1979), *“the degree to which state behavior conforms to what an agreement prescribes or proscribes”*. As such, compliance should not be viewed as a dichotomy but rather as a spectrum, exemplifying the ambiguity of a regime and allowing for a better distinction between compliance and effectiveness. This is important because with the focus on ‘(non)compliance’ alone, scholars have often failed to uncover the answers they were after. Namely, the extent to which international agreements or regimes are able to tackle the perceived shared problems that led to their formation (Von Stein, 2013).

3.2. Theoretical understandings on arms export control

There are several theoretical understandings on the subject of state’ compliance with international agreements, and specifically within the scope of the European arms export control regime. (Hansen & Marsh, 2015; Perkins & Neumayer, 2010; Bromley & Maletta, 2018; Platte & Leuffen, 2016; Erickson, 2011; Erickson, 2015). Which have developed alongside a multitude of viewpoints, with most persuasive interpretations drawing from more than one theoretical view. As the grounded IR traditions, realism, liberalism and constructivism, often talk crossed purposes, in part because of fundamental differences in the underlying assumptions, and in part because they focus on different issues (Haggard & Simmons, 1987). Still, being explicit about the varying assumptions and what they bring to the table, is important for developing a well-rounded understanding on member states’ compliance with EU arms export control, the role of material and idealist motivation therein, and the effectiveness of the regime. Following previous works on regime compliance the following theoretical understandings are divided into two main groups, rationalist and constructivist, based on the role material and or normative interests are thought to play in the compliance of democratic states with multilateral arms export control regimes, such as the EU Common Position (Keohane, 1988; von Stein, 2013). Subsequently the notion of ‘reputation’ will be addressed, an alternative explanation forwarded by Jennifer Erickson, and an overarching framework encompassing both approaches.

3.2.1. Rationalist approach

Rationalism, which can herein be regarded as an amalgamation of grounded IR

(neo)liberalist and (neo)realist theories, conceives the world as anarchic without a bound set of rules. A place where state governments and (international)institutions are the supreme actors, behaving along a self-help logic prioritizing the maximalization of utilitarian material interests. Therefore, from a rationalist perspective, the first observation would be that no overarching power exists to enforce international regimes. So, why would a state observe compliance when this is perceived to be contrary to their interests at that time? Simple answer, they don't. Any compliance observed is coincidence; states only abide when it is in their interest to do so. As most agreements simply articulate identical or complementary interests, and those that do not are unlikely to last (von Stein, 2013).

From this perspective, arms exports serve two main goals. First, to bolster allied states, win new allies or by arming the 'enemy of my enemy' in an effort to increase the external security capacity and balance against a common threat (Platte & Leuffen, 2016). In extension, through exporting arms the receiving countries become dependent for technical support, spare parts, training and exercise for decades. This often results in tighter relations developing between states keeping dependent states in a sphere of influence. As such, countries with a colonial past like the United Kingdom and France remain to benefit from the bond between former colonizer and colonized through a new relationship of arms exporter and importer. Second, through expanding sales to foreign states, arms can be produced in longer production runs at lower unit costs. This enables weapon producing states to acquire economies of scale, thereby maintaining their military industrial base. Especially when exporting to capital rich states, this supports the producing state's ability to afford and maintain its material capabilities. However, taking into account that today's ally maybe one's future enemy, arms exporting states need to be careful to whom they export and should not be unlimited.

With regard to the control of arms exports, the commitment to restrain exports on humanitarian grounds provides a theoretical challenge for rationalist theories. By committing to restrained arms exports through 'responsible' controls, states risk losing their foreign policy autonomy, their defense industry and by extension their material position in

the international system. It is not that states lack the moral interest for more responsible arms control. But confronted with the high material costs, they are unlikely to commit or comply with such policies. For states to support humanitarian inspired arm export policy, they must either expect material benefits to be gained from new controls or see them as simply codify existing practice and therefore irrelevant and not harmful to existing interests (Erickson, 2015). This view correlates with the theory of hegemonic stability, which dictates that regimes are the product of the dominant power and its strength depends on the relative power of the dominant player. As such, it is believed that stronger states dominate weaker ones and determine the effectiveness of a regime (Platte & Leuffen, 2016).

From this perspective, it's unlikely that arms exporting states commit to restraining their arms exports on humanitarian grounds. When they do however, the commitments are assumed to merely reflect material interests and codify existing practices. This has the potential benefit of bringing about a more level-playing-field. As such, when commitments are made, states are expected to comply in order to reap those benefits and avert damage through potential sanctions. However, with a lack of compliance mechanisms, the subsequent limited threat of sanctions and low valuation for the potential benefits, the cost of non-compliance is often too low to deter states from restraining their arms exports on humanitarian grounds alone. Therewithal, it is expected that smaller states which use arms exports mainly for economic reasons are more likely to comply with arms export control regimes than larger powers for whom the exports of weapons are also considered a strategic tool to increase their sphere of influence.

3.2.2. Constructivist approach

Whereas rationalist theories assume that states supremely act on the basis of utilitarian material motivations, constructivist believe that states are guided by ideals, norms and identity, which outweigh or reshape material costs (Platte & Leuffen, 2016; von Stein, 2013). This seems to be exemplified by the EUs 'responsible' arms export control, which suggests that the EU's power lies in its ability to establish norms amongst its members and encouraging other countries to follow in its ideational image. Even when it is absent of any material gains, often economically costly and imposing on state sovereignty (Manners, 2002). From this approach, all EU member states are expected to fully comply with the arms control norms set in the 2008 EU Common Position, especially with regard to second criterium on human rights. However, studies have found that the flow of arms often do not reflect these commitments. Arms supplying countries seem to remain indifferent towards states with critical human rights scores. Furthermore, some studies suggest that states with more human rights violations are more likely to receive arms than others (Hansen, 2016; Chandler, 2003; Davis, 2002).

Challenging the state-centric rationalist approach, it is pointed out that while governments are ultimately responsible for complying with international agreements through legislation, the process through which this happens occurs in a public arena with groups exerting power, influencing every stage of the policy- and decision-making process (Orr, 2006). Ambiguity in international regimes is therefore key, as 'details are not conducive to agreement', enabling norms to be understood in many ways and hence acceptable to a broad group of actors. Ambiguity is therefore seen as purposeful, as it enables the adoption of a regime through a 'one size fits all' formula maximizing the potential for consensus by obscuring obligation and leaving policy-practice to national competence (Hansen, 2016).

To understand the resulting variance in policy-practice outcomes, one has to understand that regimes are dynamic, continually evolving in response to (1) the external environment, (2) internal regime contestation and (3) civil society and key stakeholders. First, the external environment refers to changes in domestic politics, sudden events like crises or wars, gradual shift in the global power balance, technological change, and the development of other norms. Secondly, internal regime contestation refers to the domestic battle over the

meaning of the ambiguous language of the regime, the norms, what they proscribe and what constitutes compliance (van Kersbergen & Verbeek, 2007). Subsequently, the more ambiguous the regime, the greater the variance and shift in understanding of the meaning of set norms. Lastly, through either civil society, key stakeholders or states, 'gatekeepers' are required to lead the way in regime-adoption and to bring about the envisaged (re)interpretation of norms (Hansen, 2016).

Similarly, as described by Chandler, the political rhetoric around 'responsible' arms export control could be seen as a tool for crafting domestic legitimacy (2003). His argument is that governing parties use ethical foreign policy to express their values, a sense of self-identity, belief and purpose, in an uncontested manner. As a means to encourage internal cohesion and foster respect for the ruling party. With any negative consequences largely out of sight domestically. This way, credit can be claimed for any positive outcome of international policy, while any negative outcome can be blamed on the action or inaction of others. In short, from a social constructivist approach we would expect Western arms exporting states to commit to more restrained arms export practices in line with their normative humanitarian discourse and their socialization into international norms. Nevertheless, compliance only ensues when a majority coalition of relevant actors have similarly and in fairness internalized 'responsible' norms on the domestic level.

3.2.3. Reputation

Exemplifying the multitude of understandings on international regimes, a comparative study on European arms export control policies acknowledges that significant differences exist in the interpretation of the Common Criteria as member states prioritize their own domestic and foreign interests. Concluding that there is an 'elephant in the room' i.e. the interrelatedness of economic, security and human rights concerns in the trade of arms, which requires a more integrated study approach. In addition, it emphasizes a pivotal role for national stakeholders in determining national arms export control policy on both the domestic and EU level. Pointing out that this relationship needs to be recognized and better understood in order to come to more effective European arms export control regime (Cops, Duquet & Gourdin, 2017). Calling for an approach transcending the traditional divide

in IR which has hampered progress in understanding international regimes (Finnemore & Sikkink, 1998).

To understand the contradictory patterns between commitment and compliance with regard to arms export control, Erickson argues that state behavior is driven by reputational concerns instead of either material or normative concerns as most IR scholars assert (2015). States commit themselves to human rights in 'responsible' arms export control in international agreements to improve their reputation as a good 'international citizen' and because they are driven by reputational rather than normative concerns, states make these commitments even as these new norms are not internalized. Therefore, states do not necessarily behave according to their commitment to these new norms. Furthermore, strong material incentives exist not to comply with these norms as they impose serious cost to the defense industry and the foreign policy autonomy of states. She argues that compliance therefore doesn't automatically follow commitment, but instead is linked to the government's concern with their domestic reputation. Changes in policy that result in greater consistency with international arms control policies are observed in response to scandals hurting a government's domestic reputation. The threat of such scandal increases as questionable arms exports come to light due to (1) transparency regarding the arms control policies adopted by the state and (2) the existence of pro-arms-control non-governmental organizations that may bring public attention to irresponsible arms deals (Erickson, 2015). Subsequently, Erickson thus believes that states with higher levels of transparency and civic engagement are more sensitive to threat of scandal and are therefore inclined to comply more strictly with international agreements on arms export control. However, as those that play by the rules will resent the lack of "level playing field" caused by others taking a less restrictive approach, countries that feel led down are tempted to loosen their arms export control further eroding progression towards a more responsible arms export regime.

3.2.4 Bridging the divide


As the traditional segregated theoretical approaches in IR do not exclude each other, and are sometimes contradictory or complementary in their explanations. There seems to be a time and place for each of them. Though generally viewed as a constructivist leaning scholar, Alexander Wendt provides a concept of an overarching international social structure consisting of three cultures, Hobbesian, Lockean and Kantian (1999). With at the core of each of these cultures just one subject position, that of enemy, rival or friend respectively, prescribing the role actors take vis-à-vis within the international system. Producing three reasons for states to comply with international regimes: because they are forced to, because it is in their self-interest, or because they perceive the norms as legitimate. This roughly corresponds with neorealist, neoliberalist and constructivist theories. However, he argues that it is more useful to see them as three different “degrees” to which norms are internalized.

Similarly, Finnemore and Sikkink (1999) too have contemplated concepts overarching the traditional division in IR theories in order to make progress in the theoretical understandings of state behavior. They argue that the tendency to oppose idealist norms against rational-choice is not helpful in explaining many of the most politically weighty processes. Instead, it should be understood that norms evolve in patterned cycles with each being determined by different behavioral logics. Rationality cannot be separated from any normative political issue, just as normative context conditions any rational choice. Norms and rationality are thus closely connected. With scholars having to unravel the precise relation between the two.

Erickson’s (2008) multilevel ‘reputation’ focused approach can be viewed an effort to overcoming the traditional divide, similar to Putnam his two-level game logic. He argues that interest groups and politicians domestically construct coalitions to pursue their interests, pressuring state governments with threat of scandal amongst other, to adopt policies favorable to them. While at the same time on the international level, state governments seek to satisfy these pressures all while minimizing the possible negative consequences for the state on the international stage. This complexity has actions seeming rational and theoretically grounded on one board, such as international commitment to responsible arms

exports control, seem politically unwise and theoretically contradictory on the domestic board and vice versa. Therefore, neither of these two games should be ignored when explaining the behavior of states. Nonetheless, win-win conditions can be found, as players on both the boards will tolerate some differences in rhetoric and outcomes between the two games (Putnam, 1988). The theoretical assumptions from the preceding paragraphs are shown in Table 1.

Table 1, Expectations on commitment and compliance with arms export control regime

		Rationalist	Reputation	Constructivist
International reputation	commitment to arms export control	States will not commit, because of high costs, only when codifying existing practice	States commit to maintain/improve international reputation	Commitment because of socialization of international norms
Domestic reputation	compliance with arms export control	Compliance only when committed and in state' material interest	Compliance varies, depending on concern with scandals hurting domestic reputation	Compliance when international norms are internalized
	Degree of norm internalization 			

Source: adapted from Erickson (2015)

4. Methodology

This thesis hopes to gain insight on the observed policy-practice gap, the difference between commitment and compliance, in implementing the EU Common Position on arms export control. However, no single theory on the export of arms seems to adequately cover its complexity. Consequently, they fail to improve the regime through better understanding the root cause of its shortcomings. This qualitative interpretivist study endeavors to find answers by employing a ‘most-similar system design’ in a comparative case study of two nearly-identical countries, The Netherlands and Germany. By addressing both arms export control regimes as policy subsystems, retrieving data on the basis of document analysis, and through systematically comparing elements that have come forward through a process of theoretical sampling. This may reveal an explanation for the perceived variance in compliance with the Common Position and provide an answer to the question central to this thesis: *a) to what extent and considerations have the Netherlands and Germany come to diverging policy when licensing arms exports along the EU Common Position on Arms Export Control and b) what does this reveal about the nature and effectiveness of the regime?*

As is evident from the theoretical framework, there are multiple views on policy of arms export control, in this case the Common Position and a multitude of different theoretical approaches on the subject of regime compliance. It can either be seen as the product of negotiations between enemies in favor of the strongest actor, or the result of rivals agreeing to encourage a level playing field to the benefit of all stakeholders or maybe as a mutual undertaking reflecting the shared ideals of those involved. Although all of these aspects and insights have some part to play, with a time and place for each of them. For the practicability of this research, we will assume that the Common Position lies in prolongation of the EU’s self-styled mission of promoting peace and human rights, along the lines of Ian Manner’s proposition on Normative Power Europe (2002). It is therefore assumed that the divergence of Dutch and German outcomes regarding to the licensing of arms exports along the criteria set out in the Common Position is limited because of similar socialization and internalization of norms. After all, regarding the Netherlands and Germany, the now President of the European Commission Ursula von der Leyen once stated that with respect to security and defense, “*we follow the same inner compass*” (2018).

Testing the veracity of this claim may provide insight on the applicability of current theoretical assumptions on commitment and compliance with arms export control as set out in table 1. Plus, generalized, could provide an improved understanding on the workings of European integration and compliance with international regimes. It may even shed a light on the character of the European Union itself. Is it the product of negotiations between enemies in favor of the strongest actors, or the result of rivals encouraging a level playing field or maybe a mutual undertaking reflecting the ideals and shared beliefs of those involved? In addition, it may assess the value of the concept of 'reputation' as forwarded by Erickson and demonstrate how well the concept of 'policy subsystems' lends itself to researching international regimes.

This chapter will proceed by: first, addressing the conceptual approach providing the framework for theoretical sampling; second, outlining the research design of the comparative case study; third, describing the research strategy on the retrieval of data and fourth the operationalization of the elements emanating from the conceptual framework. The thesis will then proceed in chapter five where all elements of the Dutch arms export regime subsequently Germany are studied. In order to better understand the considerations made, some specific outcomes in The Netherlands and Germany are studied in-depth to comprehend the political decisions on the export of arms. In chapter six the results of the various elements of the model are analyzed. Subsequently, conclusions are drawn, reflected upon and discussed in chapter seven

4.1 Conceptual framework

Given that arm export control regimes are clearly complex multi-layered phenomena, an approach is required that stresses the dynamics of individual national policy processes, the interaction of both political and economic objectives, and the current policy-making environment (Bertsch, Cupitt and Elliot-Gower, 1998). In studying policy process, Shannon Orr noticed that the concept of 'regime' much resembles that of a 'policy subsystem' (2003). After researching both concepts alongside the progress in international climate change policy, she concludes that policy subsystems and international regimes are in fact highly analogous, and that both bodies of literature should be integrated to better understand the

behavior of organized interests and the power relation between them and state governments.

Working along similar presumptions Davis instrumentalized subsystems when examining the harmonization of EU arms export control by comparing Swedish, British and German arms export control policies (2002). Subsystems in policy research, are made up of both competing and allied groups, think tanks, academics, institutions and governmental actors that are directly involved in the policymaking process in a specialized policy area.

Acknowledging that policy makers do not work in isolation, but rather in concert with organized interests, with participating groups having the benefit of influencing policy. Within this process, subsystem activities may include bringing issues to the agenda, developing and helping pass legislation and support further policy implementation. In doing so, subsystems provide expertise on a policy area beyond that of the government alone. However, the most important characteristic of a subsystem is its diversity. They may vary in terms of size, degree of connectedness, conflict, longevity, commitment, degree of formal informal participation, and scope of activities. There is no fixed subsystem design, rather the structure and activities emanate from the policy domain and environment in which they exist (Orr, 2003).

Researching the effectiveness of the preceding EU Code of Conduct on Arms Export Control, Davis was seemingly the first to conceptualized the EU arms export control regime as a policy subsystem, as is shown in figure 1. The subsystem consists of three elements which make up an overall institutional pattern within which policies are made: (a) policy environments – the specific context in which events surrounding a policy occur influences and is in turn influenced by policy stakeholders and public policies.; (b) policy stakeholders – individuals or groups which have a stake in policies because they affect and are affected by governmental decisions; and (c) National export control regimes – the long series of more or less related choices, including decisions not to act, made by government bodies and officials. The interactions that take place between these three elements are crucial to understanding the formulation of arms export control policy (Davis, 2002).

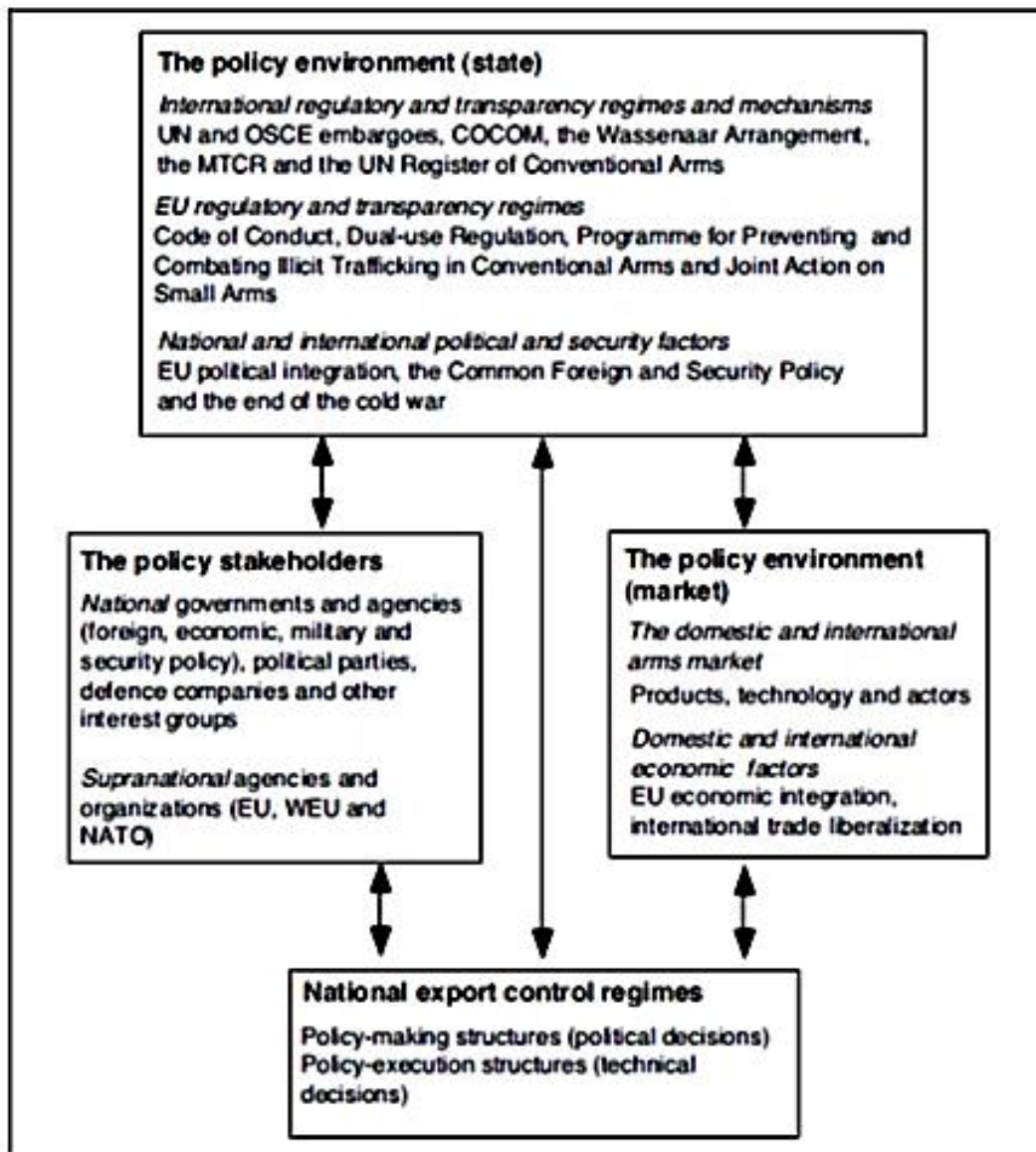


Figure 1, Model of arms export control policy subsystem (Davis, 2002).

4.2 Research design: comparative case study

As exemplified in preceding chapters, the observed policy commitment-practice gap in the EU arms export control regime proves challenging for existing theories to explain. To come to a better understanding, this study employs a comparative case study using Most-Similar System Design (MSDD) in the analysis of the elements brought forward in the conceptual model. This may be considered a productive approach when examining national political regimes, with the merit of providing a framework for scholars with limited resources, while potentially generating new hypotheses as stepping stone for further statistical analysis (Collier, 1993).

Table 2: Model of Mills Method of Difference,

	Independent Variables	Dependent Variable
Case 1	A B C D E	Y
Case 2	~A B C D E	~Y

Source: Bennet (2012).

4.2.1 Most Similar System Design

This approach resembles Mill's Method of Difference, in which one looks for antecedent conditions that differ between two cases that have different outcomes. From the following example (where ~A represents "not A"), one can infer that that variable A is causally related as it is only present when the outcome varies (Bennet, 2012). Similarly, this method is also described as the method of "controlled comparison", because if two cases are in fact the same with the exception of one independent variable, then we have a practical equivalent of a controlled experiment. The limitation being, that two cases are almost never identical in all but one independent variable. Nor is it possible to account for all variables and how they, potentially in combination, could lead to the same outcome (Bennet, 2012). When addressing this issue, one of the recommended approaches is to focus on comparable cases. Meaning, "similar in a large number of important characteristics which one treats as constants, but dissimilar as to those variables are concerned which one wants to relate to each other" (Lijphart, 1971). When considering appropriate candidates for comparison one has to focus on a) cases that are matched on many variables that are not central to study, thus in effect controlling for the variables, and b) differ in key variables that are of interest to the study (Collier, 1993).

4.2.2 Case selection

The selected cases for this comparison, Germany and the Netherlands have similar cultural heritage, share a border and its inhabitants have the same ethnolinguistic background. Plus, both are modern parliamentary democracies with likeminded political parties based on confessional, socialist, liberal and green believes, a free and diverse press and independent courts. In addition, they are heavily intertwined global economic powers sharing the same currency, are internationally committed to the same treaties and conduct the same normative rhetoric. Both countries are also members of the North Atlantic Treaty Organization (NATO) and founding members of the EU. Also, they adhere to the same European Common Position on Arms Control and are part of the same EU foreign and security policy. In her address to open the Berlin Security Conference (November 2018) the German minister of Defense stated the Germany and the Netherlands – co-hosting the event – *“with respect to security and defense, were guided by the same moral compass”*. All with all, we may assume that the countries share the same security and economic interest and that international norms are similarly internalized. Thus, acting as controlling variables, providing the opportunity to uncover dissimilarities which can account for the difference in policy outcomes.

4.3 Method of analysis & data collection

As the subject of arms exports control is highly sensitive and traditionally kept from public scrutiny as much as possible. The ambition of this thesis is limited to the scarcely available primary data provided in annual reports by governments, records of parliamentary sessions and secondary data from independent research institutions. As such this thesis employs document analysis in order to elicit meaning, gain understanding, and gain empirical knowledge. Documents contain text that have been recorded without other researchers' intervention and can therefore be referred to as 'social facts. As research method, document analysis is especially useful to qualitative studies with the aim of producing rich descriptions of a single phenomenon or program such as the workings of the Dutch and German arms export control regimes within the EU Common Position on Arms Export Control. Documents of all types can uncover meaning, develop understanding and discover insights relevant to the research problem. However, it is therefore important to determine the authenticity and

usefulness of certain sources and take into account the original purpose, the context in which it was produced and the intended audience. This thesis will amongst others review data only from acclaimed sources such as: news articles, organisational and institutional reports; survey data; and various public records of parliamentary meetings. The analytical procedure first entails finding, selecting, then making sense of and synthesising the information contained in the documents. Second, the results are then organised into major themes, categories and case examples. Document analysis is then not just a matter of lining up quotations to convey whatever idea comes to mind. But is rather a process in which empirical knowledge is produced and understanding is developed (Bowen, 2009).

In relations to other qualitative methods, document analysis has multiple advantages as it is a less time-consuming approach with a focus on data selection, rather than collection. Documents are often available in the public domain and is therefore also cost-effective. Plus, documents are non-reactive, meaning unaffected by the researcher or the research process and thus a stable source of information. Other advantages are the exactness of information provided and the broad coverage, over long spans of time, events and settings (Bowen, 2009).

However, there are also some disadvantages. As the documents are produced for other purposes than research, they often provide insufficient detail to clearly present answers to the posed research question. In addition, and of concern to this study, is the biased and selective availability of documents. Which may be aligned with governmental and corporate desire to reflect certain principles or image. As such, access to 'unfavourable' documents may be obscured (Bowen, 2009).

4.4 Operationalization

To deal with the potential drawbacks of document analysis, it should be determined which data is relevant to the research. The collection and analysis of data from these documents has therefore been part of a process of theoretical sampling. That is, sampling on the basis of concepts, that have been proven to have theoretical relevance to the evolving theory as has been laid out in the preceding theoretical and conceptual frameworks (Bowen, 2009). Data is therefore selected by treating the the arms export control regimes as a policy

subsystem similar to the model adopted from Davis (2002). As such this thesis will explore the following elements which have emanated from the conceptual model.

4.4.1. Policy environment of the state and market

On the assumption that the Netherlands and Germany share many characteristics within a shared economic and security environment thereby accounting for the controlling variables, the following elements within the 'Policy Environment' are jointly investigated.

This covers two facets, the state and the market. Both on multiple levels of analysis, the macro-regional policy environment within the EU and NATO, and the global policy environment. The global level of analysis provides the necessary context on the changing global security structure and the international arms market which shape the (multi-)national regulatory practices (Davis, 2002). The EU will however be the main focus, as it is most influential and relevant to this study. As such the following themes for the policy environment of the state are addressed: International Security of the State; NATO, Regional Security; the EU Common Security Policy, The EU Common arms export regime and the European Defense Industry. For the policy environment of the market, the global market trends and the merging of European defense companies are investigated.

4.4.2 Policy stakeholders

To find potential explanatory variables, the following elements are investigated binationally for both the Netherlands and Germany. First: Government, parliament and political parties; Second; the armed forces; Third: Third, the defense industry; and last, public opinion in both nations towards arms exports. The interplay between the main stakeholders that underlie the policy subsystems will undoubtedly reveal that there are commonalities in the views of stakeholders, but more so that there are divergent interests and views not only between national governments in different EU states, but also within every EU country. It is rare to come across a unified national perspective on the issue and it is therefore important to differentiate between mainstream views and those of minorities on arms export control (Davis, 2002).

4.4.3 Public policy on arms export control

The described elements above are all interrelated, each affecting the other and vice versa. Jointly they conduce the policy system of interest to this study, the arms export control of the Netherlands and Germany. This consist of two basic elements which will be investigated for each country: the policy-making structure and the policy-execution structure. It is important to distinguish between these two as they reflect the discrepancy between normative commitments underpinning policymaking on one hand and the blunt reality of arms export control practice on the other. The principles and norms herein are understood to provide the defining characteristics of the policy-making framework. Which in turn underpin the rules and decision-making guidelines in the policy-execution framework (Davis, 2002).

In the field of arms export controls, policy-making entails the normative and administrative framework ensuring that the export of arms is regulated in accordance with the Common Position. This includes what goods are subject to control with respect to its destination and under which conditions. Summarily, this can be viewed as a general predisposition on how to act in a particular instance (Davis, 2002). Whilst policy-execution is the actual decision-making where applications for the export of arms are not handled solely through the administrative process but become subject to political considerations. As such, the commitment to multilateral agreements on arms export control often reflect good intentions and attitudes towards how to act. Whilst the actual outcomes can turn out quite different.

4.4.4 Policy outcomes

Exemplifying the perceived policy-practice gap, the outcomes in relation to arms exports to critical scoring 'third- countries' Saudi-Arabia and Indonesia, are examined. Both states fall outside of the traditional export markets of NATO members and their allies, and have been marked as critical in relation to the criteria set out in the Common Position. As determined by researchers from the Bonn International Center for Conversion (BICC) in the publicly available database Ruestingsexport.info (2020). Yet, different approaches are employed by both Dutch and German governments in the handling of the arms export applications illustrating the discrepant workings of the EU Common Position.

5. Results

The examination of the global policy environment, which applies to both the Netherlands and Germany, first focusses on the environment of the state, and second on the environment of the market. Subsequently, this chapter will address the stakeholders and the arms export control policies for the Netherlands and Germany specifically.

5.1. Global policy environment of the state

After the fall of the Berlin Wall and the demise of the Warsaw Pact, European armed forces changed their strategic focus from large scale battle to peace and security operations. Subsequently, there has been a steady decline of Western military budgets over the past decades relative to their GDP. Yet, as a new balance of power dawns, one which is no longer characterized by either one or two superpowers as during preceding decades. Instead, consist of many more players with global reach, among which not only sovereign states and their institutions, but also non-state actors and multinational organizations, all vying for power. This change in the global policy environment has had great transformative impact on the arms trade industry and together with a push for more responsible arms export control challenges contemporary arms export practices and future progression. The next section will therefore discuss global trends and EU initiatives similarly shared by both the Netherlands and Germany, before addressing each of the cases domestic concerns separately.

5.1.1 International security cooperation with NATO

During the NATO - summit in Wales, NATO-members renewed their pledge to raise their defense budgets to two percent of Gross Domestic Product. This was prompted by renewed aggressive posturing by the Russian Federation and increased concerns over China, which is not only an emerging economic superpower but also a rising military power (NATO, 2014). In addition to these changing global realities, there is ongoing unrest in countries bordering Europe and the Middle-East. These threats are exacerbated by and perhaps symptomatic of a seemingly waning influence of European nations on the global stage (Pomorska & Noutcheva, 2017). In addition, the Trump administration continues to press its European

allies into spending more money on defense. Threatening to leave NATO, if the financial burden is not distributed more 'fairly' and calling it "obsolete" (BBC, 2017). Adding to Europa's woes is Brexit. Although not directly undermining European security as both remain interwoven within NATO, it does hamper the EU's efforts to improve military cooperation and project power abroad.

5.1.2 EU common security and defence

To increase security cooperation and project a more cohesive message outward, the EU has set up the European External Action Service, which is headed by the High Representative for Foreign Affairs and Security Policy. It functions as the EU's diplomatic service and is responsible for carrying out the EU's Common Foreign and Security Policy (CFSP). The EU's Common Security and Defense Policy (CSDP) is one of the main components of the CFSP. Headed by the Military Committee, the CSDP supports the EU in effecting its foreign policy when military or civilian mission are required in areas of conflict or to assist in human disaster relief. Required detachments are composed of member states on a case by case base. For example, anti-piracy operation Atalanta off the coast of Somalia, ALTHEA to maintain a safe and secure environment in Bosnia and Herzegovina, and the European Union Training Mission in Central African Republic to support local authorities protecting its territorial integrity (EEAS, 2019a).

Though the European Union is mainly known for its soft-power, in case of need, the European Council also presides over several battalion-sized battlegroups for rapid response in times of crises. Two battlegroups, consisting of about 1500 personnel each, must be able to operate world-wide up to 120 days. Member countries provide military personnel, material and required logistics on a rotational basis. Although no battlegroups have been deployed since their inception in 2007, they have contributed to enhanced cooperation between member states' militaries. As of 2017, further steps have been made by the European Council to ensure financial solidarity and future readiness (EEAS, 2019b).

Some member states favor EU military cooperation, but the more Atlantic-oriented members are apprehensive that too much focus on EU military cooperation might weaken NATO as cornerstone of Western security. This unease came to light as the German

Chancellor and the French President called for a “real European army”. When addressing the European Parliament, Mrs. Merkel argued that the Europeans should take their fate more in their own hand as it could no longer unconditionally rely on others (Bennhold, 2018). A move in line with long-lasting efforts by the EU to further integrate Europe but supposedly also triggered by the complicated relations with the US-president. However, the Dutch prime-minister, Mr. Rutte quickly responded not to favor an EU army as it would undermine NATO, which remains the cornerstone of Dutch security (Sterling, 2018).

5.1.3. EU harmonizing defence industry

To ensure the best military equipment for its forces and improve the fragmented European defense market, the EU has set guidelines for the procurement of military goods. Unless vital security interests are involved, EU members are supposed to tender their new weapon systems openly on the EU market in accordance with EU Directive 2009/81/EC. Efforts to harmonize the European defense market is led by the European Defence Agency, which also oversees collaboration on the Permanent Structured Cooperation on Security and Defense, improving European defense capabilities through joint operations and research (EDA, 2020). However, little progress has been made over the years. Especially larger countries seem to find ways to benefit their own industry and to keep foreign companies out of competition. They often apply EU Article 346 that allows exceptions when ‘national security’ matters are at stake. Supporting national industry often prevails, even when buying a system from a foreign manufacturer would be more beneficial. This lack of level playing is often perceived to more negatively impact smaller arms exporting states, limiting export opportunities to larger countries. On several occasions, this issue has been debated in Dutch Parliament where the Defense minister reiterated her commitment to pursue a better functioning European defense market (Tweede Kamer der Staten-Generaal, 2017b).

The unwillingness of larger EU member countries, such as France and former EU-member the United Kingdom, to stick to more restrictive export controls, suggests that apart from the limited economic advantage, other motives are at work. Head of the French Defense Procurement Office Mr. Collet-Billon argues that larger countries value a strong national defense industry as an intrinsic part of their sovereignty. This is supposedly compromised when a nation depends on weapon systems not domestically developed, designed and built. Smaller countries do not value this aspect in the same way as they, due to economy of

scales, are simply unable to do so (DefenseNews, 2017). In pursuing new weapon systems together, Europe would benefit from the economic argument that money spent on systems locally build, will help innovation and keeps money and jobs at home. Plus, economies of scale would assure that European security remains affordable.

5.1.4. EU arms export control

To enable a joint European Common Foreign and Security Policy (CFSP) and ensure a functioning European defense market, EU members are committed to the European arms export control framework which is laid down in EU-directive 2008/944/CFSP. The EU arms export framework is based on a list of goods and technologies that warrant export licenses. This list is regularly updated. Individual nations must prove the applications against the 8 EU-criteria. The EU-members meet in COARM for consultation, to discuss the EU arms export framework, take initiatives and to share information. By this, COARM aims to harmonize policies and create a level playing field. An important aspect of sharing information is the exchange of denied licenses for export application. However, a "denial" has no binding effect for other EU-members in their decision making, a member is only legally bound to consult another when confronted with an application that has previously been denied by that member (EC, 2016).

5.2. The global policy environment of the market

5.2.1. Global trends

After a steady decline since the mid-eighties, the global transfer of arms has picked-up since 2003. The Stockholm International Peace Research Institute (SIPRI) reports annually on global arms exports. In its "Trends in arms transfers, 2016" it concludes that during years 2012-2016 the volume of transfers was eight and a half percent higher than the previous five-year period 2007-2011 (Fleurant et. al., 2017). The five biggest exporters in 2012-2016 were the USA, followed by Russia, and then China, France and Germany closely together. All of the top-ten arms exporters, which also include the United Kingdom, Spain, Italy, Ukraine and Israel, with the exception of Germany and France, managed to increase their volume of conventional arms exports (Fleurant, et. al., 2017). However, the 2019 report saw Germany and France both having made up the loss of market share at the beginning of the decade and

having regained their number three and four positions in the global ranking. Overall, EU-member states saw their arms exports increase with nine percent in the period 2015-19 compared to 2010-14, combined they accounted for twenty-seven percent of global arms transfers in the period 2014-18 (Wezeman et al., 2019). Together the top-5 EU arms exporters: France, Germany, the United Kingdom, Spain and Italy, accounted for twenty-three percent of global arms transfers. A slight increase from twenty percent in the period 2010-14 (Wezeman, et al., 2020). For EU members, the region that accounted for the highest growth in exports was the Middle-East, which saw the import of arms rise with 87 percent in the period 2014-18 compared to 2009-13 (Wezeman et al., 2019). Affirming the trend of a shift in the destination of European arms from its traditional markets within the EU, NATO and aligned states towards so-called third countries outside of these alliances.

In the Middle East, Saudi-Arabia is by far the largest buyer, accounting for one third of the regions total import of arms, followed by Egypt, the United Arab Emirates (UAE), Iraq and Qatar. The United States supplied around half of total arms to the region, followed by France with eleven percent and Russia with twelve percent. The sharp increase in arms transfers in the region is attributed to several reasons: the increasing distrust between Iran and Saudi-Arabia together with the UAE on the other, the latter two' rising tensions with their neighbor Qatar and both their ongoing involvement in Yemen. This has led to calls for restrictions on arms exports in all the Western arms supplying states. However, unlike other major European arms exporters, only Germany suspended the bulk of its arms exports to Saudi-Arabia (Wezeman et. al., 2020).

5.2.2. European companies merge

In order to have a stronger European position on the global arms industry there have been a number of mergers where European companies have joined forces to better compete with their American, Russian and Chinese counterparts. Most prominent is Airbus Group, formerly known as European Aeronautic Defense and Space Company (EADS); a 2001 merger of German, French and Spanish companies. Which SIPRI ranks as the 7th largest arms producing company globally and is only second to British BAE systems in Europe (2016). Likewise, MBDA was formed in 2001, a consolidation of German, French, Italian and British manufacturers of guided missiles. Owned by both BAE and Airbus Group, it ranked 25th globally and as 7th largest Western European defense contractor (SIPRI, 2018).

Krauss-Maffei Wegman and the French company Nexter have merged in 2015. The new Amsterdam headquartered company named KNDS, is positioned to be one of the largest manufactures of military land systems. According to media this merger is criticized in Germany as the new company may cost jobs at home and open an extra possibility to sell arms in a sensitive market avoiding a more restrictive German arms export policy (Deutsche Welle, 2015). Such a market is Saudi-Arabia, to whom 72 German made Eurofighters were sold in 2006 via its British partner BAE systems (BBC, 2006). Possibly to evade controversy at home.

Similarly, between 2014 and 2015, German Firm Rheinmetall sold 71.5 million euros worth of military hardware to Saudi Arabia via its Italian branch RWM Italia. Signaling increased cooperation between German and Saudi arms manufacturers, often through foreign subsidiaries. As such, South African Rheinmetall Denel Munition, a Rheinmetall subsidiary in which it holds 51% of the shares, built a 240 million US dollar ammunition factory in the vicinity of Riyadh, which produces 300 artillery shells or 600 mortars daily for the Saudi military (Conrad & von Hein, 2018). More recently, Rheinmetall has set its eyes on the Krauss-Maffei Wegmann portion of KNDS to strengthen its future pitch for the new European main Battle tank and increase its potential as partner for the modernization of US ground forces (Sprenger, 2018). In similar spirit, Rheinmetall and BAE announced a Joint Venture in 2019. According to a press release, the joint firm RBSL will initially focus on major UK program and as part of Rheinmetall's Vehicle Systems Division participate in and contribute to various global military vehicle pursuits and contracts (BAE, 2019).

Although mergers are supposed to boost the European arms industries, different political views on the export of arms, can complicate initiatives. These mergers not only obscure the statistics surrounding arms exports, but also enables creative accountancy to meet the governments vow of a restrictive arms policy. Germany and France intend to develop a 6th generation fighter jet. But France insist that a shared export policy is a prerequisite to start working. However, Germany worries that France strives for a more lenient approach than German policies allow. Fears have arisen that this difference might endanger the project before it starts (Handelsblatt, 2019).

5.3 Dutch policy stakeholders

5.3.1 Dutch government, parliament and political parties

The Kingdom of the Netherlands, of which The Netherlands is its largest constituent country, is a constitutional monarchy governed by a democratically elected government. It has a two-chamber parliament with general elections being held every 4 years based on proportional representation without a threshold. The Tweede Kamer is the principal platform for political discussion and responsible for lawmaking. After laws have a majority in the Tweede Kamer they have to pass the Eerste Kamer. The Eerste Kamer has no right of amendment. It can only agree or reject laws. Members of the Eerste Kamer are elected by representatives of the Provinciale Staten, consisting of mostly senior politicians and other public service administrators. During recent years traditional parties have lost ground in de Tweede Kamer allowing a number of new, often smaller, parties to enter parliament. Since 2002, 6 governments were installed supported by 2 or 3 parties. Only Rutte 2, from 2012 till 2016, managed to make a full term of 4 years. Albeit occasionally backed by opposition on a number of controversial issues. The new liberal and Christian oriented coalition from 2017 onwards, Rutte 3, is supported by 4 parties: VVD, CDA, CU, D66.

Although the heydays of the Netherlands pointing its finger to the rest of the world are over, it has not altogether disappeared. Whenever a state-visit is scheduled there are calls by public opinion and parliament to put human-rights issues on the agenda in countries with shortcomings (Financieel Dagblad, 2015). This has particularly been of importance to more left leaning parties, with right leaning parties more conducive to improved trade relations. Although it's not always appreciated by guests and hosts alike, the Netherlands has to keep the standard high as it is the seat of several international lawcourts and the Organization for the Prohibition of Chemical weapons. This posturing as an international mediator have helped Dutch politicians and civil servants to be nominated for important international positions, strengthening its influence on the global stage. For example, mr. Koenders as UN-commissioner in Mali, mrs. Kaag as UN commissioner overseeing the handing of chemical weapons by Syria and more recently, the appointment of mrs. Hennis as UN-representative in Iraq.

5.3.2 Dutch armed forces

In the Netherlands, the armed forces suspended the national draft in 1995 in the wake of the Cold War. Since 1989 its active troop strength shrank from over 105,000 to a mere 36,500 in 2016, a reduction of 65% and saw its budget decrease to just 1.17% of GDP (Bentick, 2018). Nearly all major weapon systems were considerably reduced in numbers, with some weapon systems completely shunted and a large number of barracks and exercise areas closed. In recent years the military struggled to keep weapons systems ready for combat. Defects, lack of spare part, and lack of engineering staff kept hardware inoperable (NRC, 2014). Rutte 3, confronted with rising security concerns, has increased the defense budget and intends to do so in oncoming years, aiming for 2% of GDP as agreed with NATO partner in Wales 2014 (Rijksoverheid, 2018).

The government has the supreme command over deploying the armed forces in conflict or areas of conflict. However, it has to inform, time permitted, parliament by a so-called article 100 letter. Currently, Dutch Armed Forces are involved in 14 missions abroad, including training of foreign forces, peace monitoring and maritime patrols securing shipping routes (Defensie, 2020a). From 2001, the Netherlands has intermittently contributed to the NATO-led missions in Afghanistan; until 2014 under UN-mandate in the International Security Assistance Force, and from 2014 in the Resolute Support Mission. From October 2014 to December 2014 Dutch F-16's, as part of the "Global Coalition to defeat the Islamic State", flew over 1300 combat missions deploying weapons over Iraq and eastern Syria (Defensie, 2020a)(Trouw, 2016).

In part forced by reduced numbers, the Dutch have looked for closer cooperation to make more effective use of its military capabilities. Such as the Anglo-Dutch amphibious force, the joint Dutch-Belgian naval command and anti-mine operations. In addition, the Dutch armed forces cooperate closely with their allies in the procurement and development of new weapon systems, take part in joint quick reaction forces and share an army corps headquarters with its German counterpart in Münster (Defensie, 2020b). Also notable, the Dutch operate one permanent overseas military base on the Caribbean island of Curacao which is part of the Kingdom of the Netherlands.

5.3.3 Dutch defence industry

The Dutch defense and security industry consist of around 354 companies employing 24,800 people and has a turnover of around 4.54 billion Euros, accounting for 0.63% of gross domestic product in 2014. As the domestic market is small, 68% is derived from exports, around 3.1 billion Euros (Ministry of Foreign Trade and Development and Ministry of Foreign Affairs, 2019). It consists of only one Original Equipment Manufacturer (OEM) that designs, develops and produces complete weapons systems, Damen Schelde Naval Shipyards (DSNS) and a number that deliver complete subsystems: Thales Hengelo, Fokker Aerospace, van Halteren, De Regt Marine Cables, Ten Cate, Photonis and RH-Marine. However, the majority of industries provide foreign OEMs and subsystem manufacturers with components or basic raw materials. Additionally, there are a number of knowledge institutes with highly appreciated military research departments like TNO, MARIN and NLR (Bouwer & van der Zwan, 2013). Around 175 of these companies are organized in the Netherlands Industries for Defense and Security, a branch organization looking after the interests of the industry (2020). The ministry of Defence also acts as a launching customer for the defense industry to overcome teething problems and to convince potential customers. Naval visits abroad are regularly used to support economic missions and to promote the defense industry. In the Netherlands, cooperation between the Ministry of Defense, the Ministry of Economic Affairs and the industry is formalized in the Defensie Industrie Strategie (Rijksoverheid, 2018).

As new orders from its main customer the Royal Netherlands Navy (RNLN) are sparse, Damen has successfully exported combat ships to Indonesia, Morocco and recently Mexico among others. Plus, other ships for security purposes to Nigeria, Sweden, Thailand, United Arab Emirates and Vietnam and others. In order to strengthen its bid for new contracts, Damen has joined forces with other European manufacturers and successfully tendered for the construction of new frigates for the German Navy with Blohm+Voss. Together with Swedish Saab, Damen is currently pitching for the construction of submarines for the RNLN (Damen, 2020). Yet this is not a new strategy to survive in the competitive European Defense industry. Already in 1990s did two major companies team-up, the former Hollandse Signaalapparaten; manufacturer of radar- and fire-control systems, and the French Thales Group (Bouwer & van der Zwan, 2013).

In 2016, the Netherlands approved arms exports worth 1.4 billion Euros, of which 644 million Euros to NATO and EU countries. In 2017, arms exports were down to 805 million Euros, of which 535 million Euros of strategic goods and services were destined for NATO and EU countries (Ministry of Foreign Trade and Development and Ministry of Foreign Affairs, 2019). According to SIPRI, over the past decade, Indonesia, Jordan, Morocco and the US have been amongst its largest customers with the Netherlands ranking as 10th largest exporter of conventional arms globally over the period 2013-2017. This is higher than expected given the moderate turn-around of its defense industry. For the most part, this is due to the successful selling of surplus weapons that became redundant as the Dutch armed forces were downscaled. In that period a large number of naval ships, tanks and F-16s were sold to NATO and third -countries. But as the selling off redundant systems is much lower than before, around 200 million Euros annually, it is expected that the Netherlands will fall out of the top ten of global arms exporting countries (Defensie, 2016).

The Ministry of Economic Affairs, bureau Commissariaat Militaire Productie (CMP) is tasked with supporting the industry with the export of military goods. CMP coordinates Dutch efforts to improve the fragmented European defense market with special attention to a level playing field. When foreign OEMs are selected to provide the Netherlands with major weapon systems, CMP negotiates to conduct “international participation” with Dutch industry (Rijksoverheid, 2020a). November 2018, the Ministry of Defence published a new Defense Industry Strategy. To protect the Dutch defense industry against the perceived lack of level playing field within the EU, the Netherlands will, within the European rules, prefer more prominently Dutch industry when national security interests are at stake (Defensie, 2020c). In essence, it will apply for EU-article 346 more than in the past, much to the linking of the industry.

5.3.4 Dutch public opinion on the export of arms

In Western democracies public opinion is supposed to channel its interests through the political system to influence government. In the Netherlands, main public opposition to arms exports is propagated by StopWapenHandelNu. Focusing on research and informing the public, they are regularly cited in both domestic and international media (stopwapenhandel, 2020). One of its main contributors is Martin Broek, a fierce anti-militarist advocating maximum transparency on Dutch arms exports through keeping a public blog on most recent

developments (Broek, 2020). Over decades church groups have also prominently contributed to the public debate on peace and security, defense and the defense-industry. In the eighties, the Interkerkelijk Vredesberaad was an influential pressure group, able to co-organize two gatherings with over 400.000 protesters against the nuclear arms race. These unprecedented protests substantially influenced the political debate and resulted in the government not accepting stationing of cruise missiles in the Netherlands. Nowadays churches in the Netherlands do only in general terms address peace and security issues. The Interkerkelijk Vredesberaad/Pax Christi still advocates disarmament but its influence on the public debate seems to be much smaller than in the past (Bos, 2015).

5.4 Dutch public policy on arms export control

5.4.1 Dutch policy-making structure

The Netherlands is a strong proponent of international cooperation on the non-proliferation of conventional arms, banishing chemical, biological and nuclear weapons and is committed to upholding all international arms control mechanisms. Its policy has four main goals: strengthening the international legal order; preventing terrorist use of nuclear weapons; strengthening compliance and enforcements of international norms and regulations; and to boost international negotiations on disarmament and non-proliferation. Accordingly, the Dutch have ratified 11 international agreements forming the basis of their policy on strategic goods and services. This includes the 2013 UN Arms Trade Treaty, which already closely aligns with Dutch arms export control policies. The determination what goods and services are considered 'strategic' and thus subject to additional export controls, is stated in the EU Common Military List. Which is supervised by COARM and largely based on the 1996 Wassenaar Arrangement. Additionally, this stipulates which dual-use goods are subject to control, those goods and services that ordinarily are used in civil setting but can also be used for military purposes (Ministry of Foreign Affairs, 2018). This list is reviewed annually and is regularly updated. EU-member states are also obliged to offer maximum transparency regarding the export of arms. In the Netherlands, an annual report, 'Jaarrapport Nederlands Wapenexportbeleid', is offered to parliament. It details extensively on policies, the national arms industry, the values of arms export, countries that are exported to, selling of surplus

Dutch weapon systems, components and arms that transits through Dutch customs. Additionally, it gives a 10-years overview of total arms exports (Ministry of Foreign Trade and Development and Ministry of Foreign Affairs, 2019). This is then used as starting point for the appropriate committees for review and to discuss future policy.

5.4.2 Dutch policy-executing structure

Although the policy-making structure on what goods are subject to control is largely defined by means of EU cooperation and consensus. The exact procedure on how to control the exports of arms remains a national competence, constituting a complex system, unique to every member state. In the Netherlands, the control of arms exports is imbedded in 10 complementary national laws and subject to eight different institutions (Ministry of Foreign Affairs, 2018). In addition to EU-guidelines, the Dutch articulate that security considerations always take precedent over economic interests, that they promote an international level playing field and don't want companies overburdened with bureaucracy (Rijksoverheid, 2020b).

In the Netherlands, all exports and transits of military -goods, -technology, -services and possible dual-use systems, must be applied for or given notice off before shipment. The Centrale Dienst voor In- en Uitvoer, a customs agency under the supervision of the Ministry of Financial Affairs, processes the applications using the EU-list on military goods and the eight criteria set out in the EU Common Position. Remarkably, on its website the Dutch government differentiates between the first and latter four of the criteria. Taking the first four as prerequisite to "almost always" deny applications. Whilst only articulating the need for "extra investigation" when concerned with the latter four of the criteria (Rijksoverheid, 2020b). However, this might be an unintentional mix-up between the Common Position and its predecessor the EU 1998 Code Conduct on Arms Export Control which expressly does make this distinction.

In 2014 a number of 4 applications were denied to India, Russia, Taiwan and Bangladesh. In 2015 14 applications were denied to India, Venezuela, Thailand, UAE, Saudi-Arabia, Ukraine and Qatar. In 2016 28 applications were denied to Surinam, Egypt, Serbia, Saudi-Arabia, Pakistan, Thailand, Turkey, UAE, Qatar, Ukraine and India. The "denials" detailed the nature of the application and the EU-criteria on which the denials were based. The denials were in

accordance with the EU-framework, notified to the EU-members (Ministry of Foreign Trade and Development and Ministry of Foreign Affairs, 2019).

Controversial applications are tested against latest policies on arms export by the Ministry of Foreign Affairs with prime responsibility for the Minister of Foreign Trade and Development (Ministry of Foreign Affairs, 2018). However, when the government perceives a decision might be contentious, be it within the coalition or facing an opposing majority in parliament, it informs parliament of its intentions. Generally, the political debate then follows right-left lines. The right-oriented parties mostly back the export of arms. While left-oriented parties oppose a too lenient decision making or in principle are against all export of arms. To allow more insight in the political debate, a number of policy outcomes are given in the following paragraphs.

5.4.3 Dutch policy outcomes

5.4.3.1 Indonesia

Early 2012 the Dutch government informed parliament that the Netherlands and Indonesia discussed the possible sale of surplus Leopard 2 A6 tanks (Tweede Kamer der Staten-Generaal, 2012). The Netherlands had previously agreed on selling naval ships built by Damen Schelde Naval Shipbuilding and keen on maintaining good relations with Indonesia as a former Dutch colony. The government was in favor of selling the surplus tanks but a possible deal met strong opposition in Dutch Parliament. Although the government claimed that human rights in Indonesia had strongly improved in recent years, a majority in parliament seemed unconvinced and threatened to oppose the deal worth 200 million Euros. Expressing concern over rights of minority groups and the violent suppression of the Papua independence movement in West-Papua. Which notably, has long been inaccessible to foreigners and journalists in particular. The cabinet under Rutte I then postponed the decision to avoid a no-vote in parliament. As this would probably have caused a diplomatic backlash over perceived finger-wagging of the Dutch towards their former colony. Indonesia then went on to procure the desired tanks and other military goods several days later from Germany, whilst the Dutch tanks were later sold to Finland (NRC, 2013).

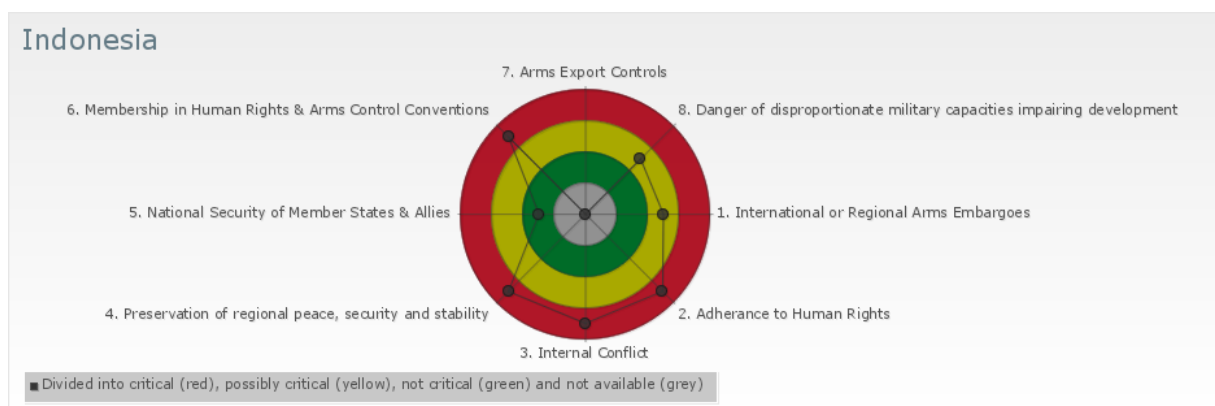


Figure 2, Assessment of Indonesia alongside criteria of the EU Common Position on Arms Export Control (BICC, 2020)

To understand how the Dutch government and parliament apply the Common Position when addressing controversial arms exports, a closer look into the debate is helpful. The intended selling of Leopard 2 tanks was first discussed late 2011, when a motion forwarded by opposing members of parliament El Fassed, van Dijk and Eijsink, to refrain from selling surplus military material to Indonesia for perceived abuses by the military in Atjeh, East Timor and West-Papua, was supported by a majority of parliament (Tweede Kamer der Staten-Generaal, 2011a). However, the Minister of Defence Hillen, and Minister of Foreign Affairs Uri Rosenthal informed parliament by letter, that the government would proceed with the intended sales as “the assessment was found to be positive on all criteria” (Tweede Kamer der Staten-Generaal, 2011a). It was then debated on in the parliamentary commission for Defence on the 21th of June 2012 (Tweede Kamer der Staten-Generaal, 2012b). The application was positively received by CDA and VVD who argued that the money was needed to help to bridge the deficit national budget and would bring work to the industry with the modernization of the tanks before export. No facts were reported, they argued, in which tanks were used to oppress the civilian population or minorities. Nearly all other parties, including right-wing PVV, claimed that selling arms to a poor country, with a bad record on human rights and no land borders was illogical and against the guidelines set out in the EU Common Position on export of weapons. The then Minister of Foreign affairs, mr. Uri Rosenthal defended the proposed sale by arguing that no official multilateral arms embargo existed, covering criteria 1, and condescended that criteria 2 and 3, human rights and internal conflict, required further discussion. Arguing that the human rights situation in Indonesia was a cause of concern, but substantial progress was made in recent

years deserving praise not denunciation. Besides that, there was no reason to believe that tanks were or would be used to abuse human rights. On criteria 3 -internal conflicts- he stated that Indonesia was now a stable democratic country with the political power of the military substantially curbed. On criteria 4 -regional stability- Rosenthal was optimistic as strained relations with Malaysia had subsided and Australia was not concerned by any threat. Nor did any of the other criteria give reason for concern according to him (Tweede Kamer der Staten-Generaal, 2012b). However, the Tweede Kamer remained unconvinced and the Indonesian government withdrew its request moving on to an alternate vendor (Volkskrant, 2012).

5.4.3.2 Saudi-Arabia

For decades Saudi-Arabia has been an uncomfortable ally of the West. Rich on fossil fuels and a stalwart opponent of Iran, it seems indispensable to Western interest. The autocratic regime oppresses opposition, violates human rights and is alleged the cradle of Muslim fundamentalism. Yet it has immense financial resources and is willing to spend its money on Western arms. In 2011, Dutch members of parliament El Fassed and Van Dijk, from the opposing Groenlinks and SP, motioned the government to stop shipments of strategic goods to Saudi-Arabia. In its response, the government admitted that criteria 2 and 3 of the EU Common Position gave cause for concern, but insisted that the criteria were guidelines to be used in a case by case fashion. When the intended use of the applied for goods are perceived to be in direct violation with the criteria, any application would have been rescinded. Adding that the government already goes further than the guideline by taking into account the general situation in Saudi Arabia and potential future use of strategic goods. In addition, the government notes that the motion would amount to a de-facto arms embargo, which unilaterally would not produce any result and the Dutch government has therefore never done before (Tweede Kamer der Staten-Generaal, 2011b).

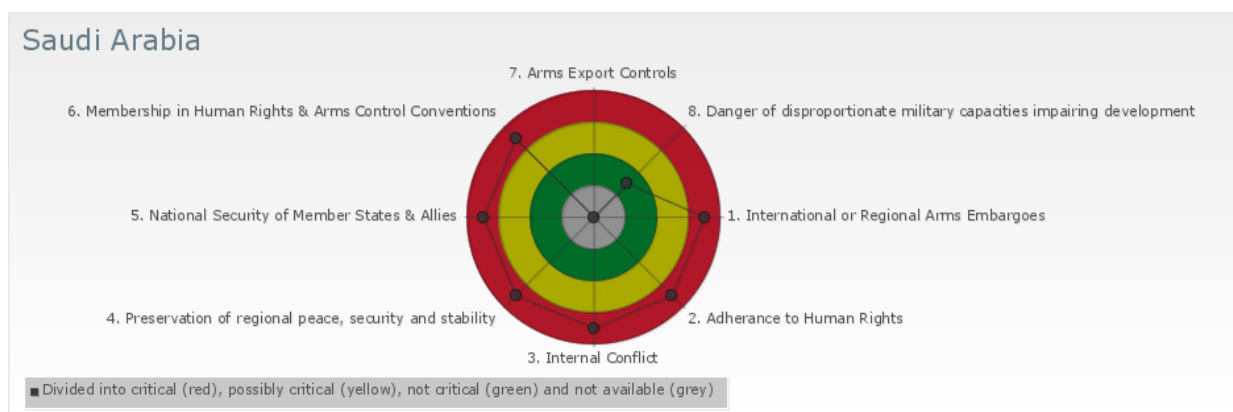


Figure 3, Assessment of Saudi-Arabia alongside criteria of the EU Common Position on Arms Export Control (BICC, 2020)

In 2014 a Saudi-Arabia led coalition intervened in the Yemen's internal conflict in support of its government's efforts fighting Houthi-rebels. With calls for an arms-embargo again resonating in the Tweede Kamer. Minister of Foreign Affairs in Rutte' second cabinet, Mr. Koenders argued that the Saudi coalition intervened on behalf of the legitimate Yemenis government and thus in accordance with international law. However, he agreed that the indiscriminate air-attacks and the suffering of the Yemenites gave cause for great concern. All applications for arms exports to Saudi-Arabia and its allies would therefore be judged extremely critical. In fact, the Netherlands already was the most restrictive country in the EU, with only 0.07% of total Dutch arms exports going to Saudi-Arabia. Foreseeing a common EU arms embargo to be unlikely and unfavorable towards any unilateral steps, Mr. Koenders then stated that he would continue to discuss the issue with his EU-colleges. From a strategic standpoint, member of parliament Mr. Teeven from the VVD argued that an arms-embargo of Saudi-Arabia would in prolongation also hamper sales of naval equipment to Qatar and the United Arab Emirates. While their maritime forces ensure free movement of oil tankers in the Persian Gulf discouraging Iran from blocking the Street of Hormuz (Tweede Kamer der Staten-Generaal, 2016).

Since then, the Netherlands has increasingly restricted the transfer of strategic goods towards Saudi-Arabia and its coalition partners. Although not through an official embargo, but de-facto, as only one application was granted in 2016 worth 20.000 Euros. The same year in COARM as chairman, Mr. Bert Koenders pleaded utmost restraint by EU-members in judging applications for arms exports to Saudi Arabia and its allies (Ministry of Foreign Trade and

Development and Ministry of Foreign Affairs, 2017). Yet as atrocities in Yemen continued, in march 2017 a motion was again forwarded in parliament to a ban all arms exports to Saudi-Arabia, falling short only two votes. Bringing mr. Koenders to again argue that a formal arms embargo would isolate the Netherlands as the only country to do so and being pointless as due to a very restrictive policy, arms exports were already nearly non-existent (Tweede Kamer der Staten-Generaal, 2017a).

Yet as the conflict in Yemen has prompted global condemnation with the UN-General Secretary warning for war crimes and the EU-parliament calling for an arms embargo to be imposed on Saudi-Arabia. No international agreement has been reached and the calls by the EU-parliament are turning out to be nothing more than a toothless tiger as arms export control remains a national competence. Nevertheless, this does increase pressure on the EU-suppliers to rethink their position (Ranking, 2016). More recently, Minister of Foreign Trade and Development mrs. Kaag, answered questions by mrs. Karabulut about media reports that European arms exported to Saudi-Arabia and the United Arab Emirates were used by jihadist groups in Yemen. Mrs Kaag could not confirm the information but did not rule it out either. Only mentioning criterium 7 of the Common Position, that European countries are bound to assess the risk of exported arms ending up in the hands of unauthorized users (Tweede Kamer der Staten-Generaal, 2019).

5.6 German policy stakeholders

5.6.1 German government, parliament and political parties

Germany, officially known as the Federal Republic of Germany, is a federal state composed of sixteen partly-sovereign states. General elections for parliament at the both the federal level and at the level of the Länder, every four years. The electoral process is a combination of district representation and proportional representation. A threshold of 5% of the total votes is used to prevent smaller parties to enter the Bundestag. The current chancellor Mrs. Merkel, has been head of government since 2005 with her party CDU/CSU, together with SPD, the following term with FDP and again with SPD in a third term. With all governments retaining their political majority for the full four years. On the 7th of February 2018, Merkel' fourth government was agreed upon, again a coalition of CDU/CSU and SPD. As part of the

resulting negotiations under pressure of SPD, further commitments were made to further restrain exports to countries directly involved in the Yemenite war. The SPD has always been very critical of German arms exports propagating maximum restraint, while the CDU has favored more leeway for the defence industry. The new government has also agreed to continue the efforts of Merkel 3 to further restrict the selling of small arms. In addition, no new export of small arms to third countries will be approved. CSU, the Bavarian sister party of CDU, will man the relevant ministries of Economic Affairs and Defense (CDU, 2018).

Like the Netherlands, Germany has a two-chamber parliament. The Bundestag is the principal platform for political debate and lawmaking. The second chamber, the Bundesrat, represents the Bundesländer. Its members are the prime-ministers and nominated ministers from the 16 governments of the constituent Bundesländer. The Bundesrat reflects the federal character of the German constitution giving advice on all laws that have passed the Bundestag. Depending on the subject, as defined in the constitution, specific laws must be agreed upon by the Bundesrat. Additionally, the Bundesrat has the right of initiative. It can propose new legislation to government and the Bundestag (Britannica, 2020).

In the decades immediately following the Second World War Germany took a modest role in international affairs. Germany only and reluctantly took part in peacekeeping operations with non-combatant military personnel. After the German reunification in 1991 its self-confidence on the international stage steadily rose to a more robust participation in peacekeeping operations abroad (Struck, 2002). In recent years there has been a wider call by allied countries to prompt Germany taking a role more befitting its position as Europe's largest economy. As such, Germany has lobbied in recent years for a permanent seat in the UN Security Council (Auswaertiges Amt, 2019). Indicative of Germany's changing position in world affairs is the role it took in 2015 brokering the Minsk agreements, an armistice between the Ukrainian government and separatist rebels backed by Russia in eastern Ukraine. Since then Mrs. Merkel has pressured the warring parties to comply with the agreement and managed to keep Europe's ranks close against calls by some to lift the sanctions against Russia for annexing Ukrainian territory (Reuters, 2016).

5.6.2 German Armed Forces

After the collapse of the Warsaw Pact, armed forces all over western Europe were restructured and reduced in size. A complex operation with far reaching consequences for

military organizations. In Germany, it was even more difficult as substantial numbers of personnel, weapons systems, barracks and training facilities of the former East-German Nationale Volksarmee had to be laid off or incorporated into the Bundeswehr. The number of Bundeswehr personnel declined from around 500.000 in 1991 to around 200.000 in 2016 (Deutscher Bundestag, 2017). Since then, obligatory national service has been changed into a voluntarily service and the number of weapon systems has been substantially reduced. In the 1990s the Bundeswehr had over 2125 Leopard A7 tanks, significantly more than the three hundred Leopards currently in service (Althaus, 2019). In addition, the Bundeswehr has been struggling to keep its weapon systems in good order. Defects, lack of spare parts and maintenance are to blame. Similar to its European allies confronted with rising security concerns and put under pressure by President Trump, Germany has pledged to increase the defense budget to two percent of GDP (Deutsche Welle, 2018). In Germany, the government needs approval from parliament to send armed forces to areas of conflict (Deutscher Bundestag, 2020).

Under UN-mandate, its armed forces have been active in Afghanistan since 2003. Initially under UN-mandate as part of the NATO-led International Security Assistance Force. After the UN-mandate expired in 2014, a German contingent continued to support the Afghan government as part of the Resolute Support Mission. Of which Germany was the second largest supporter after the United States with 1300 soldiers in 2018. As part of the “Global Coalition to Defeat the Islamic State”, Germany flew Tornado jetfighters to gather intelligence, contributed with air-to-air refueling and leadership training for senior Iraqi officers. Currently, German military personnel is active in peacekeeping missions or as observers in Sudan, Tunisia, Libya, Kosovo, Afghanistan, Iraq, Mali and Lebanon. (Bundeswehr, 2020).

Forced by reduced numbers, Germany has been looking for closer co-operation to make more effective use of remaining military capabilities. As such, it shares a common army corps headquarters with the Dutch armed forces in Münster. Unlike other major arms supplying countries, the Bundeswehr has no permanent bases outside Germany with no intention to do have so either. Similarly, Germany does not have a nuclear capability, unlike other European powerhouses such as France and the United Kingdom. Although Germany intends to take a more prominent role on the world stage, there is no sign that Germany has

the ambition to become a nuclear power. Instead opting for continued nuclear sharing with the United States as deterrence strategy (Marschall, 2019).

5.6.3 German defence industry

The German defense industry consists of a large number of OEMs such as: Airbus Defense, Blohm+Voss, Diehl, EADS, Hensoldt, Kraus-Maffei-Wegmann, Lürssen Defence, MBDA, Rheinmetall, and Thyssen-Krupp Marine Systems, which provide the Bundeswehr with nearly all its hardware. In addition, Mauser and Heckler & Koch are leading small fire-arms manufacturers. Known for their engineering expertise, German weapons systems are world renowned and include: the Leopard tank, Puma armored vehicle, the Eurofighter, the A400 transport plane, NH90 helicopter, IRIS guided missile, several classes of naval frigates and the submarine U31-class. The German defense and security industry is represented by both the Bundesverband Sicherheits- und Verteidigungsindustrie and the Bundesverband der Deutschen Luft und Raumfahrt Industrie, which translates as the Association for Security and Defense Industry and Association for German Aerospace Industry respectively (Weingarten et al., 2015).

After decades of declining military budgets in the West, making rough times for the German defense and security industry, business has been picking up again. The industry had a direct turn-over of around 12,2 billion Euros in 2015, having around 135.700 employees and is dominated by the air- and space branch with a turn-over of 7,5 billion Euros with 23.800 employees. Yet, as Germany is an export powerhouse, arms exports contributed to only 0,3 percent of total export in 2015 (Weingarten et. al.,2015). Over the past decade its market share has steadily grown around seventeen percent and now accounts for 5.8 percent of global total. Achieving a stable top five ranking of arms exporting countries behind the United States and Russia, closely tied with France, the UK and China (Wezeman et. al., 2020).

Notably, German OEM's strongly rely on exports, around seventy to eighty percent of their turn-over and from the start of the century a remarkable shift in destination can be observed. Until mid-2000's Germany sold around threequarters of its strategic goods to allied NATO/EU countries and equivalent partners. By 2011, this was reduced to one third of total arms exports and according to SIPRI in 2016 (Wezeman, et al., 2017). Between 2011 and 2013, half of the total value of granted licenses was destined for the Middle-East. However, the latest report shows that this has dropped to twenty-three percent between

2015 and 2019. Overall, its export destinations are evenly spread globally, with Europe twenty-eight percent, Asia and Oceania twenty-four percent, the America's sixteen percent and Africa the remaining nine percent (Wezeman et. al., 2020). Over the decade, amongst its largest customers have been Algiers, Egypt, Greece, Israel, Saudi-Arabia, South Korea and the US (Fleurant et. al., 2016, 2017; Wezeman et. al., 2018, 2019, 2020). Although economically of relatively small importance, controversial destinations have made arms exports a politically sensitive issue in Germany. In addition, this also has a strong regional aspect as the industry concentrates in former West-Germany regions of Bavaria, Baden-Württemberg, Nordrhein-Westfalen and along the North-sea coast (StepMap, 2014).

5.6.4 German public opinion on arms exports

In Germany, church communities actively express their views on society and on the role of Germany as a leading exporter of arms. Collectively, they review German arms exports annually and take a critical stance on exports to conflict regions (GKKE, 2019). Reports on the involvement of newly delivered German made patrol ships in the blockade of Yemen, contributing to mass starvation of the population, has them argue that the current system of arms control is failing and has them advocating for legislation enabling export licenses to be tested in court (Fuchs, 2017). For some years the Heckler & Koch, manufacturer of small arms, has been in the cross-hairs of protesters and shareholder-activists. They argue that although the administrative process is followed, too often small arms end up in other countries and in the hands of para-militaries. Blaming the government for a lack of post-shipments controls to see where exported arms eventually end up. They feel confirmed by a criminal investigation into the company as Heckler & Koch small arms were used in the killing of 43 Mexican students in 2014 (Knight, 2019).

A critical opinion of the public was confirmed by an online poll by YouGov and used by activists to spur government to take action. Nearly two third of the German population questioned in 2018 was against the export of arms and eighty percent was against selling arms to regions of conflict. Notably, eighty-three percent of the German public was perceived to be against selling arms to NATO ally Turkey (Frankfurter Allgemeine, 2018).

5.7 German public policy on arms export control

5.7.1 German policy-making structure

The export of military goods and weapons is not an instrument of economic policy, is strictly controlled and can only be manufactured, transported and marketed with permission of the Federal government. The licensing authorities from the Federal Ministry of Economic Affairs and Energy (BMWi) act in accordance with the 'Policy Principles of the Government of the Federal Republic of Germany for the Export of War Weapons and Other Military Equipment'. Its guiding principles reflect a desire to pursue a most restrictive policy on arms exports and dual use goods. It further restricts the export to third countries unless in a specific case this is exceptionally warranted on particular foreign and security grounds, having due regard to alliance interests. Such as counter-terrorism operations and for protection of coastal waters. The German government also expresses that its commitments go beyond that of the Wassenaar agreements and since 2011 that policy also factors in the human rights situation in the recipient country (Bundesministeriums für Wirtschaft und Energie (BMWi), 2020). On the international level, Germany committed itself to the 2014 UN Arms Trade Treaty which closely aligns with standing German policy on the control of arms exports. In practice, what goods are subject to control and to what destinations is set out in the legally binding 2008 EU Common Position on the Conduct of Arms Export Control. A major principle of which is to annually provide a report on the export of strategic goods with maximum transparency.

The annually reoccurring report by BMWi called "Bericht der Bundesregierung über ihre Exportpolitik für konventionelle Rüstungsgeräte", is both extensive and detailed. According to the 2016 report, the government has even encouraged public debate on the future of German arm exports by organizing a number of public events in which industry, unions, research-institutes, churches, interest groups and legal experts had a say (2017a). It stresses the need to be stricter on the export of small-arms as small arms are more often used to violate human rights and might easily proliferate to terrorists and rebels. In order to keep track on exports of small arms the German government has announced new post-shipment-controls. However, it currently stands alone on this within the EU and internationally (BMWi, 2020).

5.7.2 German policy-execution structure

In Germany the Federal Office of Economics and Export Control, part of BMWi, oversees regular arms export applications. Decisions on export of military equipment are taken in agreement with the Federal Foreign Office and the Federal Ministry of Defence. Where there are different views between the institutions involved in the decision-making process, or when cases are especially significant, the Federal Security Council takes over. Its meetings on the approval of arms export applications take place in confidentiality, constituting only several key ministers and head of the Federal Chancellery (BMWi, 2020).

In 2015, 12.687 applications to export arms were approved, 100 applications worth 7,4 million Euros were denied (BMWi, 2016). In 2016, 12.215 applications were approved, of which 61 applications worth 11,03 million Euros were denied. Countries most affected by the denials were China, Vietnam and Argentina. In 2016 small arms export were denied to India and Indonesia. Concerning the denials, the report stresses that the industry is able to check the government on the preliminary chances of an approval. When a "negative", the industry often refrains from application reducing the official number of denials (BMWi, 2017a).

Parliament can discuss policies within committees or in full session of parliament. In general, the political debate then follows right-left lines. In most case the right-oriented parties, CDU, CSU, FDP and AfD backing the export of arms. The left-oriented, SPD, die Linke and the Bündnis 90/Grünen oppose a too lenient decision making or are fundamentally against the export of arms. However, as the general lines are already agreed upon in the coalition agreement and any controversial applications have been decided by the security council behind closed doors, there is generally little room for political debate. The perceived lack of political leverage prompted politicians of the left Bündnis 90/ Grünen to request legislation on the export of arms to allow controversial export of arms to be challenged in court (Deutscher Bundestag, 2017b). To allow more insight in the political debate, a few political outcomes are presented in the next paragraphs.

5.7.3 German policy outcomes

5.7.3.1 Indonesia

As discussions on the export of surplus Leopard 2 tanks lingered on in Dutch parliament and the government hesitated to give final approval, Indonesia withdrew its request and turned to Germany. The German Security Council then quickly jumped to the occasion on accepting Indonesia's promise that the armored vehicles would never be used against its own population. Subsequently, 104 Leopard 2 tanks, refurbished with state-of-the-art urban combat capabilities, together with 50 surplus Marder infantry fighting vehicles were sold.

The Merkel government had previously also agreed on selling of tanks and other land systems built by Krauss-Maffei-Wegmann and Rheinmetall to Saudi-Arabia, United Arab Emirates and Qatar. The German government defended its decisions to grant export as these countries had a legitimate cause to strengthen their armed forces to defend themselves against Iranian aggression. Export of weapons to the Arabic peninsula and the selling of tanks to Indonesia make suspect a change of position by the Merkel administration leaving a once restricted export policy. Previous governments had, when selling arms to countries with dubious human right records, limited themselves to selling frigates and submarines, keeping to the dictum of former Foreign Minister Dietrich Genscher *"That which floats is okay. That which rolls is not"* (Gebauer, 2013).

The decision to sell tanks to Indonesia was challenged by the Bündis 90/Die Grünen and Die Linke, but not backed by parliament. In response to questions posed by Mrs. Keul, Mrs. Cramon-Taubadel and Mrs. Walter-Rosenheimer of the Bündis 90/Die Grünen, on the human rights situation in Indonesia. The government expressed that abuses by the military were long in the past, that great improvements had been made in recent years and the Bundeswehr now considers the Indonesian military as an international partner. Responding to the question if the Netherlands had been consulted in the government' weighing of the export license as is stipulated by the Common Position, the German government responded that the Dutch had not formally denied the export application and had therefore not been consulted, but would have in accordance with the Common Position if it had been the case (Bundestag, 2012).

5.7.3.2 Saudi-Arabia

Germany is a major provider of arms to Saudi-Arabia. In 2016 Saudi-Arabia rose from seventh position in 2015, to third position as export destination. Around five hundred and thirty million Euros worth of helicopters, air transport, armored vehicles were exported (BMW, 2017a). Following the Saudi involvement in Yemen, Die Linke with support of other opposition parties, asked the government to ban all exports of arms and retract approval for outsourcing of arms manufacturing to countries part of the Gulf Cooperation Council (Deutscher Bundestag, 2016a). The motion was discussed in the committees for economic and foreign affairs, in which Die Linke opposed the government's argument that it is impossible to withdraw given licenses. CDU/CSU argued that the motion by Die Linke was in fact an arms embargo which was not in line with EU-guidelines. Applications must be proved on a case by case base. SPD agreed with its coalition partner, stating that the government was already very restrictive as demonstrated by the reduction of exports of small arms. Bündnis 90/Die Grünen blamed the government for hiding behind the previous government and agreed with Die Linke that licenses could be withdrawn when goods were used in unforeseen situation. However, the motion was not carrier as it was not supported by the majority coalition CDU/CSU and SPD (Deutscher Bundestag, 2016b).

In June 2017, Bündnis 90/Die Grünen and others forwarded another motion called, "Rüstungsexporte endlich reduzieren – Frieden, Sicherheit und Menschenrechte bei den Entscheidungen stärken", which translates to 'Finally reduce arms exports - strengthen peace, security and human rights in decisions' in an effort to substantially reduce arms exports to the Middle-East (Deutscher Bundestag, 2017b). The motion specifically addressed the civil war in Yemen, Saudi-Arabia's role in it and the EU-parliaments call for a Saudi-Arabia's arms embargo. Mrs. Keul of Bündnis 90/Die Grünen argued that the current EU-guidelines did not work and other mechanisms are needed for a more responsible control of arms exports. She pleaded for formal legislation ensuring that human rights are seriously considered when judging applications for exports. Licenses could then not only be discussed in parliament but when necessary, challenged in court. She mentioned that German-build naval ships exported to Saudi-Arabia, were now used for a sea blockade stopping essential goods from entering Yemen, contributing to the immense suffering of the population. Plus, reiterated Foreign Minister Gabriel' earlier warning for a military conflict between Saudi-Arabia and Qatar. Mr. Willsch of CDU/CSU defended current government policy,

downplaying arms export as only a fraction of total German exports, while at the same time essential to ensuring that the German military had the best equipment. This prompted anger with opposition members, as he refused to even mention Saudi-Arabia, nor any other regions of conflict where German arms were used. Mr. Ulrich Hampel of the SPD, also part of the coalition government, then boasted his party's efforts for more transparency in arm exports and the restrictive German approach to exporting small arms. He too, did not elaborate on German-made arms used in conflict regions. Mrs. Obermeier of CDU/CSU wondered whether the opposition had read the recent SIPRI report stating that German arms exports had decreased over the last 4 years by thirty-six percent, proving the government took its responsibility. However, Mrs. Keul of Bündnis 90/Die Grünen retorted that the same SIPRI report revealed that 92,5 percent of arms went to non-NATO and non-EU countries. Die Linke mostly refrained from the debate, Mr. van Aken only reaffirmed that they did not approve of any arms exports. The debate resulted in the Bundestag not carrying the motion, instead referring it back to the appropriate committees. (Deutscher Bundestag, 2017c).

Not until the killing of Saudi journalist Jamal Khashoggi in the Saudi consulate in Istanbul in October 2018, did Chancellor Merkel take stance against continued arms transfers to Saudi-Arabia. Asserting, that *"As far as arms exports are concerned, this cannot take place in the state we are in at the moment"* (Spiegel, 2018). Giving in to opponents of arms exports, but leaving the door open for when matters have blown over. The industry was quick to respond, expressing that the government should not play politics at the expense of the industry and threatened with claims if granted licenses were withheld (Tagesspiegel, 2018). In an interview with Reuters, Airbus Chief Executive Tom Enders accused Germany of showing *"a kind of moral superelevation"* on arms export (Rinke, 2019). In his opinion, the German government was frustrating its partners Britain, France and Spain with its unilateral arms embargo against the Saudis. Warning that the European arms industry would consider manufacturing German-free products if Germany would not fall in line with its European partners (Rinke, 2019). Withstanding this criticism, Germany, has repeatedly extended the ban on exporting arms to Saudi-Arabia, lasting now at least until December 31st, 2020.

6. Analysis

6.1 The policy environment of the state

After the collapse of the Soviet Union and the demise of the Warsaw Pact, the West assumed itself to be the dominant geo-political player for decades to come. Under the “Pax America” and continental stability provided through the EU, Western European states allowed themselves to downscale their defense budgets. Consequently, accepting that its defence and security industry would struggle and search for new markets. But the unipolar world was short-lived and emerging powers and new threats have unsettled the power balance. The ascension of China as a global superpower, the threatening stance from the Russian Federation and the unpredictable behavior of the US is changing the geopolitical landscape putting the EU at a crossroads. For the Netherlands and Germany, this entails differing challenges matching their positions in the global world order.

The Netherlands, with its days as colonial power in the distant past, now considers itself only a minor player on the international stage, treading carefully in the fast-changing geopolitical theatre. Its foreign policy focusses on the existing peace and security framework within the EU and NATO and perceives its status cemented hosting several international organizations and courts of justice. The Netherlands apparently remains comfortable in its multi-hatted role as diplomat, merchant and vicar, trying to remain a relevant actor on the international stage as a stalwart defender of international rule of law.

After World War 2, Germany reemerged as two separate entities, in the east, the German Democratic Republic under the auspices of the Soviet-Union and in the west the Federal Republic of Germany, which eventually went on to take part in the security framework of NATO. The complex reunification conveniently occurred in a period of relative global stability with Germany keeping a restrained tone on foreign policy issues regarding its contemporary history. Yet, at the turn of the millennium a new generation of politicians took a more assertive role on the global stage. Perhaps not out of self-interest, but because others deem a more prominent role appropriate for Europe’s largest leading economy. Today, the German Chancellor Mrs. Merkel, is considered one of the world’s most influential leaders.

The difference in size, both literally and in the sense of their population and economic weight, has the Netherlands and Germany pursue different goals. For the Dutch this means retaining its favorable status-quo as small country with relative influence. While for Germany this involves adopting a larger role on the world stage befitting its role as a global economic power.

As members of the European union, of which the Netherlands and Germany are founding members, both nations need to redefine their role within the Union now that Great Britain is to secede. Although critical opinion of the EU has become more mainstream in both countries, a sound support for the European ideal remains. With the EU having started as a platform for economic cooperation, cementing a lasting France-German friendship as a means for continental peace, stability and prosperity. It now seeks to redefine itself, encompassing a range of diverging interests, building a reputation on the global stage. The EU Common Defense and Security Policy is in line with this. Yet to improve its credibility, the EU aims to further strengthen military cooperation. With the ultimate goal as expressed by President Macron and Chancellor Merkel, perhaps triggered by the US president's wavering support for NATO, to come to a European army. The Netherlands remains apprehensive, as this could undermine transatlantic cooperation and NATO as the cornerstone of Western peace and security. Similarly, the Netherlands is in favor of enhanced EU collaboration on the production and control of strategic goods. But it feels that current EU policy is detrimental to the defense industry of smaller countries. With larger EU members less restrictive when assessing arm export applications and more often invoking article 346 expressing national security concerns, favoring their own OEM's in the European acquisition process.

Both the Netherlands and Germany are strong proponents of the European Union and agree on the direction of most policies. For the Germans, a stronger more influential EU provides opportunity to propagate a more assertive role on the world stage. Yet there is a certain apprehension with the Dutch that it will be the larger EU-members that dictate policies, leaving the rest to only follow.

6.2 The policy environment of the market

After years of declining military budgets in the West forcing defense companies to look for alternative markets to survive, expenditures are up again. Yet, over the past decades Western arms supplying states have seemingly become less restrictive in the transfer of strategic goods and technologies to keep their domestic defense industry afloat. Now, rising tensions in the Middle-East and North Africa, plus a powershift with Russia and China reasserting themselves, has the defense industry profiting from a new global arms race. However, emerging powers too are now developing high-tech weaponry to export abroad, increasing competitiveness on the global market for European companies who previously only had to contend with other Western producers.

To survive an ever more competitive global arms industry, the nationally fragmented European defense companies have been merging and now concentrate on producing more standardized weapons systems. Consequently, benefitting from achieving economy of scale by selling larger numbers of one specific “European” tank, fighter aircraft etc, to more members states than in the past. This has resulted in an increasing number of national defense companies transforming into Pan-European multinationals with their facilities spread over multiple countries. An extra bonus for the industry could be that mergers are better positioned to ‘shop’ for export licenses. Simply by shifting production or sales to member states more lenient in applying the Common Position. The German defense industry has been especially active in mergers. Manufacturers of land- and aerospace-systems are highly skilled and in good position to pick the best suited partners. However, falling behind in this industry trend are the naval shipbuilders. Especially in Germany where multiple yards compete for a limited amount of orders from the German Navy. The only major Dutch OEM, Damen Schelde Naval Shipyards already has production facilities in Rumania. It has also recently acquired an order together with German Blohm+Voss for the construction of new frigates for the German navy and started close cooperation with Swedish Saab Kockums for its bid to build Dutch submarines. Yet it does not seem to have any ambition to merge with other manufacturer in the foreseeable future.

Leading EU members welcome the trend of arms manufacturers merging as it solidifies their national defense industries and strengthens the position of European firms globally. To

encourage a more competitive European defense industry, the EU is pushing for harmonization of national regulations regarding the arms industry and the acquisition of military equipment for their armed forces. Yet as EU-members seek to bolster the Common Security and Defense Policy by means of increased cooperation through the European Defense Agency and the Permanent Structured Cooperation. They simultaneously undermine effort when invoking EU-article 346, expressing national security concerns for the benefit of their domestic industries. A similar ambiguous implementation of the Common Position on Arms Export Control, which is an extension of the CSDP, seemingly undercuts EU efforts to strengthen its defense industry. Hurting the ability to keep EU members states' armed forces well equipped and affordable at the same time.

6.3 Policy stakeholders

6.3.1 Government, parliament and political parties

Due to the electoral system and subsequent political stability under the CDU/CSU of chancellor Merkel since 2005, Die Linke and Bündnis 90/Die Grünen, which are both critical of the military and the defense industry, have been sidelined when it comes to influencing the outcome of German arms export control policy. Only the SPD, which has regularly acted as coalition partner in Merkel' governments, has been able to restrain arms exports in keeping with Germany' traditionally restrictive arms export control. However, as the SPD held the Ministry of Economic Affairs, it was often passed the buck for not being strict enough on export of arms to countries that violate human rights or are in conflict. Both SPD and its Dutch counterpart PvdA, which identify as social democrats, are vulnerable in debates on the export of arms. When in opposition they tend to serve the more pacifist side of their electorate. Yet when in government, they often side with the workers argument of protecting jobs. However, opposition to arms exports seems more fruitful in the Netherlands due to its broad coalition governments. To achieve a workable majority, the governments headed by Rutte of the liberal party, often needs parties such as Groen-Links, SP, PvdA, ChristenUnie, which are generally opposed to the military and the defense industry. Although not always in the political driving seat, these parties then have a leverage in the political arena that is generally taken seriously. As a result, decision-making on controversial

export of arms seems to be more complex in de Tweede Kamer than in the Bundestag. Albeit that both parliaments have no direct involvement in the decision-making on controversial arms exports, as such decisions are made confidentially in the Dutch Council of Ministers and the German Federal Security Council respectively. However, as both governments report their decisions to the Tweede Kamer and Bundestag, they are ultimately accountable to parliament which has the power to revoke confidence in government.

6.3.2 Defence industry

Both Netherlands and Germany have a highly skilled high-tech defense and security industry. Although the German industry is much bigger with a number of major OEMs, covering nearly the entire spectrum of military equipment, it is also a lot more vulnerable. Whereas Dutch companies have a mixed portfolio of mostly half-fabricates able to survive a lack of orders from the military, leading German companies for a large part rely on military wholesales. With a relatively smaller German defense budget than before, the German defense companies seem more reliant on exports than their Dutch counterparts and more incited to seek markets in third countries. As a strategy to survive, German OEM's have been merging with other leading European firms.

Although the contribution of the arms industry to the national GDP is limited, in both countries around 0.33 percent of GDP, the industry is an important means for retaining a high-tech manufacturing basis. Therefore, efforts to ensure participation of Dutch industry in the Joint Strike Fighter program and to retain shipbuilding activities have met little political opposition in the Netherlands. As the industry in Germany provides even more jobs and of great importance to regional economies, the debate in Germany can be fierce. Defenders of the industry fear that the German defense industry will lose competitiveness due to a more restrictive export regime compared to other Western arms supplying states. Although Germany has indeed seen changes in its global market share as reported by SIPRI, it is unclear whether this is due to the more restrictive export regime, or due to the industry being able through mergers and foreign subsidiaries, to keep contentious exports out of the records.

6.3.3 Armed forces

The Dutch and German armed forces have undergone major reforms and are much smaller than during the Cold War. Having been transformed from militaries trained for large scale

operations to defend the North Atlantic and the North-European plain, into expeditionary forces operating worldwide. However, due to years of budget cuts, both militaries struggle to keep remaining hardware operational. However, a general call to face emerging security challenges has prompted both governments to increase their defense budgets again, aiming for the agreed upon NATO standard of two percent of GDP.

Over the past two decades, both the Netherlands and Germany have participated in the NATO-missions International Security Assistance Force, Resolute Support Mission and the Global Coalition to Defeat the Islamic State. Which were perceived as defensive missions supporting the Afghan government against the Taliban and came with loss of lives for both forces. In the “Global Coalition to Defeat the Islamic State” the Netherlands actively deployed weapons whereas Germany limited itself to military support. This is indicative of a more restrained approach to combat missions abroad in Germany where the government needs approval from parliament to do so. Whereas in the Netherlands this responsibility lies with government, which is often keen on presenting itself as a credible ally and more inclined to participate in combat missions abroad.

Renewed investments in the armed forces may spur research and development, improving the capabilities of both militaries and the defense industry. In extension, it can increase markets for competitive strategic goods and provide an alternative destination for exports towards third countries. Providing opportunity for both, but especially Germany, to bring about a more responsible practice of the criteria set out in the EU Common Position.

6.3.4 Public opinion on the export of arms

During the eighties, the Dutch public was extremely worried about the arms race. Anti-military groups and the Interkerkelijk Vredesberaad managed to mobilize hundreds of thousands to take to the streets. Although export of arms is regularly discussed in parliament, publicized on by mainstream media and anti-military outlets, it has not caught attention of the wider public as before. In contrast, the debate in Germany remains highly charged. With activists able to capture public attention, making policy on arms exports contentious issues during negotiations on new governments. As a result, recent governments have firmly declared commitment to the full transparency and the strictest of arms control measures in every coalition treaty. As these measures potentially threaten the

survivability of some firms, workers in the arm industries have on occasion come to violent altercations with activists.

The difference in public attention for arms exports in both countries may lie with a difference of goods involved. In general, the public in both countries seem to be okay with *“That which floats is okay, that which rolls is not”* (Gebauer, 2013). Perhaps because naval systems are deemed to be less likely used against civilians and conjure up a less threatening and disturbing image. Whereas the Dutch only export naval combatants and mostly components of weapons manufactured elsewhere. The German arms industry produces a whole spectrum of military hard ware, which can be used against civilians and are often linked with negative imagery. Especially the export of small arm has caused public outcry with protesters feeling confirmed by recent criminal investigations into Heckler and Koch. The debate in Germany is additionally charged by the perception of activists that the confessional parties only pay lip services to EU-policies. Hence the demand to legislate the EU-criteria to allow the public to challenge licenses in court.

6.4 Public policy on arms export control

6.4.1 Policy-making structure

Although previous paragraphs may indicate that there are some substantial differences between the Netherlands and Germany shaping their arms export control policies. This seems less so when it comes to the similarity of their publicly conferred image of adhering to the highest humanitarian benchmarks. Both countries their arms export control policies have evolved from merely strategic considerations during the Cold War, to take-up new considerations regarding the use and transfer of arms for the purpose of abusing human rights. Therefore, both countries have, in addition to a multitude of national laws, signed up for every international agreement regulating international trade in conventional arms. Most recent and substantial of these being the United Nations’ 2014 Arms Trade Treaty. Both countries have their policy goals stipulated on their respective government websites, which are nearly identical. With the noticeable exception that the Dutch express that export controls must not be overly burdensome for businesses. While the German version overtly

states that economic motivations shall not supersede humanitarian considerations. Both countries provide their parliaments with extensive annual or half-yearly reports for review. The Wapenexportbeleid and the Rüstungsexportbericht are very extensive, detailing policies, list all applications and the decisions taken; even giving trends. Providing a starting point for discussing future policy and collaboration with EU-partners. When reading the reports, they give the impression that the control on the export of arms is effectively regulated by both countries.

However, the determination on what goods are subject to control and for what destinations is established in collaboration with all EU members as part of the Common Defense and Security Policy. This is set out in the common dual-use and military control lists of the EU, which is largely based on the Wassenaar Agreements. Together with the eight criteria established earlier in the Code of Conduct on Arms Export Control, this forms the basis of the legally binding Common Position on Arms Export Control, which has been the guideline for all EU-members their arms export control mechanisms. Yet although the eight criteria and the list of goods at the basis of the Common Position seem clearly defined leaving little room for ambiguity. The implementation has been left to the national competence of countries, balancing strategic, economic and humanitarian considerations, leaving the butcher to inspect its own meat.

6.4.2 Policy-execution structure

In order to comply with the EU regulations on the export of arms, both the Netherlands and Germany have effective bureaucratic processes to prove applications against the eight criteria of the Common Position. If the responsible government bodies tasked with licensing regular applications struggle to make a final decision and deemed too controversial. They ask for political guidance and a decision to be made by the responsible chief political authority. In the Netherlands and Germany this responsibility lies with the Dutch Minister of Foreign Trade and Development and the German Security Council headed by the federal chancellor. However, with the ability to revoke support for the government, parliament has ultimate power in both the Netherlands and Germany.

Yet, in both states there are similar concerns whether the implementation is as watertight as on first impression. Firstly, due to a lack of post-shipment controls, there is little control were the arms eventually end-up and are used for. Occasionally they are transferred to

other countries or groups without consulting. They may fall in hands of defectors or rebels. Especially small arms are prone to enter the illegal market when local authorities fail. Secondly, through mergers or by moving production to third countries, OEM's are in position to shop in a certain degree for licenses in EU-countries with a more lenient interpretation of the EU-criteria. German companies, as most of them are now part of large European mergers, are in a better position to shop for favorable conditions than Dutch companies. Thirdly and connected to the previous concern, the opportunity to sound the chances for approval before entering the formal procedure. The opportunity to then avoid a denial, averts the need for the denied application to be discussed in COARM, helping the industry to shift production and or sales activities to countries where approval is more likely. Lastly and undermining the authority of the state, it is suggested that governments occasionally work stealthily around their own regulations by technical trickeries or by hiding behind vows of confidentiality.

6.4.3. Policy outcomes

Occasionally, when controversial exports get highlighted due to a particular destination or because of scandal; such as to Indonesia, as a former Dutch colony; or Saudi-Arabia with a considerable track record abusing human rights, its involvement in Yemen and the killing of journalist Jamal Khashoggi. The issue of arms exports gets scrutinized by the media, capturing public attention and brought up in parliament.

Considering the transfer of Leopard tanks to Indonesia. There must have been credible concerns by the Dutch government in proving the application along the criteria of the Common Position. Which would have raised many eyebrows, as the Netherlands is inhabited by several ethnic groups at odds with the Indonesian state and aware of past abuses by the military. Yet despite these concerns, it chose not to deny the application, avoiding the application to be flagged within the EU system. Which consequently would have made it more difficult for the Indonesian government to buy tanks from an EU-member state. While simultaneously, making it harder for any other EU member to pursue such sale, at a time that many sought to sell. The quick deal with Germany only days later implies a certain amount of diplomatic backchanneling, circumventing proper implementation of the Common Position. In its response to questioning in German parliament, the government was

however correct to argue that without a proper denial by the Dutch government, no consultation was required.

Regarding continued proposals for embargoing Saudi-Arabia and its allies. It shows that EU collaboration not only propagates a shared more humanitarian and responsible arms export control. But also provides an escape for governments to dismiss their responsibility towards making critical assessments. Resembling an 'I don't have to do it because they don't do it' mentality. This way, EU governments have long been able to beat around the bush addressing the elephant in the room. That of arming one of the most totalitarian and repressive states in the world. Only after the scandalous killing of Mr. Khashoggi has Germany unilaterally stopped delivering weapons to Saudi-Arabia temporarily.

Yet, as the Netherlands and Germany are bound to prove applications to the EU-criteria, the debate in parliament often revolved around whether applications meet the EU-criteria or not. Examining the debate shows that the propensity to apply the EU-criteria more loosely can be listed as (1) the humanitarian aspect, positive progress should be encouraged, not looked down upon, (2) that exports are essential for security as a vital industry helps ensure the best equipment for the armed forces, (3) the geopolitical aspect, to support the enemy of my enemy, (4) or to bind and/or support countries benign to Western interests and occasionally (5) budgetary aspect, to help bridge the national deficit when surplus systems are sold.

When comparing the political debate on the export of arms, the key aspects to justifying exports are similar and there doesn't seem to be substantial differences in positions and perspectives regarding peace and security. Arguments are often alike and follow identical political left-right divides. As discussions on the export of arms center around the EU-criteria, the interests of the industry and the risk of potential job losses are only summerly addressed in public debate. However, this seems to keep lingering in the background and it remains uncertain what the decisive motivations are when the government takes a final decision behind closed doors. Yet, there is little reason to assume that the debate is on higher moral ground in either country. Mrs. von der Leyen's claim that Germany and the Netherlands use the same moral compass, faulty or not, with respect to security and defense, is credible. Nevertheless, this can still produce diverging outcomes.

7. Conclusion

This thesis was triggered by Indonesia acquiring 200 Leopard tanks and accessories from Germany, whereas a similar request to buy tanks from the Dutch was about to be withheld only days earlier. Seemingly undermining both countries' commitment to responsible arms export control in line with the EU Common Position on Arms Export Control and international agreements. Yet, this is not an isolated incident. Despite commitments to responsible arms export control in an effort to mitigate the often detrimental effects of arms transfers. Countries scoring critical marks along the criteria of the Common Position continue to receive weapons from the European Union. Through examining the arms export control policy of two closely aligned countries, the Netherlands and Germany, this thesis intends to uncover the workings of European arms export control and the effectiveness of the Common Position. This has led to the following question to stand central in this thesis: *a) to what extent and considerations have the Netherlands and Germany come to diverging policy when licensing arms exports along the EU Common Position on Arms Export Control and b) what does this reveal about the nature and effectiveness of the regime?* At the start of this thesis, it was assumed that the divergence of policy would be limited because of similar socialization and internalization of norms. For the majority, the results of this study confirm the hypothesis, affirming Mrs. Von der Leyen statement that Germany and the Netherlands follow the same inner compass (Leyen, 2018). However, this does not mean that the diverging policy outcomes are mere incidents. Nor does this indicate that EU efforts to harmonize members' arms export control policies by means of the Common Position has established a more responsible and humanitarian regime. Casting doubt on the proper workings of that compass.

7.1 Conclusion of the comparative case study

By adopting a Policy Subsystem approach using a Most Similar System Design in the comparative case study, this thesis has uncovered elements that make up the institutional pattern of the arms export control policies of the Netherlands and Germany. Comparing these elements indicate that there are many similarities, but also some differences that can

give an explanation for why the Netherlands and Germany have come to different decisions when assessing export applications. Providing insight on the workings, nature and effectiveness of the Common Position as a regime.

Firstly, the policy environment of the state. Different roles are imposed on states depending on their size, wealth, technological skill etc., determining their position in the world order. After the Second World War and having been split in two separate entities, the unified German state has since long taken a relatively modest posture on the world stage. Now, at home and abroad, calls resound for Germany to take a more active role befitting its position as an economic powerhouse, the largest of the EU. Consequently, Germany is increasing military expenditures and seems to be expanding its global strategic footprint by engaging in controversial arms deals. To put it simply, playing with the big boys requires Germany to stomach, although reluctantly, the devil's bargain. On the other hand, the Netherlands is relatively well positioned in the international order considering its size. Seemingly comfortable with its role as mediator cemented by hosting several international organizations and courts of justice. Yet, this position would be undercut by ill-considered arms exports.

Secondly, the size and nature of the defence industry in both countries. During the Cold War, the Bundeswehr together with armed forces of smaller neighbouring NATO allies, including the Dutch, were almost exclusively supplied with complete weapon systems by German OEMs. Consequently, as military budgets were slashed in the subsequent decades, demand for expensive top-notch weapon systems 'made in Germany' fell dramatically. Having a severe impact on German arms manufacturers as they often completely relied on defence contracts. To survive, the industry has since been tapping into new markets of third countries, beyond those of NATO and allied states. Now, with demand picking up in the recent decade and having been transformed into multinational firms in global competition, the German arms industry is set to come to fruition once again. Seemingly supported by its government's increasing global strategic ambitions and in extension looser implementation of its very restrictive policy. On the other hand, the Dutch security and defence industry has always had a more mixed portfolio. As military budgets fell, some firms, specialised in high-tech components and dual-use goods, successfully shifted their focus towards commercial applications to remain in business. While others went on to supply foreign OEMs, or became

part of larger European multinationals. The only OEM to survive, DSNs, went on as subsidiary of Damen shipyards, shifting production hence and forth between commercial shipping and naval combatants for the Dutch navy. Proving a successful strategy for exports abroad, benefitting from the idea “that what floats is ok”, largely unhindered by parliament or public opinion.

Thirdly, public opinion. There is a notable difference in public attention for the issue of arms exports. Being nearly absent in the Netherlands while active and alive in Germany. With regard to the Netherlands, due to a fractured political landscape, its international role as mediator and relatively little economic benefit, the political risk often deemed too high to press ahead with dubious applications. Together with the relatively small impact of its moderate defense industry, there is little public attention for arms exports in the Netherlands. On the contrary, in Germany, despite a high degree of public attention and numerous scandals, Merkel’s governments have continually pushed controversial exports. Seemingly outweighing the economic gains and Germany’s increasing global ambitions over electoral risk. Made possible by her party CDU/CSU having dominated the political landscape with the only major party opposed to controversial arms exports, the SPD, often part of her government. Yet, the scandalous killing of Mr. Khashoggi has only led to a temporary halt of exports destined for Saudi-Arabia. However, there is no indication of any substantial change in policy as Germany’s largest customer is now Algeria and exports to Saudi-Arabia are expected to resume in the future. From this, it is deduced that although there is a substantial difference in public opinion, there is no logic in assuming that this has led to different decisions on the export of arms.

Fourthly, considering government, parliament and political parties. The lack of political stability in the Netherlands makes decision making on controversial exports a politically riskier endeavour than in Germany. The domination of Merkel CDU/CSU party in the political landscape has allowed for the destination of arms exports to shift towards third countries, especially the Middle East and North Africa, defying public opinion almost uncontested. However, this can be traced back to a changing policy environment of the state challenging Germany to pick up a more prominent role in the world order and support for the Germany’s considerable defense industry that comes with it. By itself the political arena in the

Netherlands and Germany are largely identical and is therefore considered irrelevant in explaining the diverging policy outcomes.

To sum it up, by means of the policy subsystem approach it is unveiled that the policy environment of the market, the armed forces and both policy structures of the Netherlands and Germany are largely identical and therefore cannot account for the diverging policy outcomes. Yet, differences in the institutional pattern of Dutch and German arms export control with regard to: the policy environment of the state; the defence industry; Government, parliament and parties; and public opinion have been revealed. Of which the changing policy environment of the state, imposing a different role on Germany and the Netherlands, accompanied by difference in scope and nature of their defense industries, are thought to explain the diverging policy outcomes. This summarization is shown in table 3.

Table 3, Assessment of subsystem elements on Dutch and German arms export control policy.

	Environment		Stakeholders				Structures	
	Policy Environment of the state	Policy Environment Of the market	Government, parliament and parties.	Armed forces	Defence industry	Public opinion	Policy-making Structure	Policy-execution Structure
Difference	+	0	+	0	+	+	0	0
Relevance	+	0	0	0	+	0	0	0

+ means notable; 0 means absent

From this assessment, it is concluded that although Dutch and German arms export controls have led to diverging outcomes because of considerations regarding the nature of their defence industry and different position in the world order, their policies remain largely similar in compliance with the Common Position. This affirms the constructivist assumption that divergence of policy is limited because of similar socialization and internalization of norms. However, the degree of internalization of norms in both nations is not at the level

that compliance can be expected to be fully in line with their commitments. Germany especially, as its increasingly prominent role on the global stage and established defense industry impose higher costs on compliance than on the Dutch. This induces the German government to implement the Common Position less restrictively than the Netherlands with a less prominent role and modest defense industry. Thus, it can be deduced that while adhering to the Common Position, EU-members with a more prominent position in the world order and matching defence industry are less restrictive in their implementation of arms export control than others. In extension, extrapolated to a global scale, this means that more prominent states behave less restrained adhering to international agreements than others. Corroborating a rationalist view that international regimes better reflect the interests of more powerful participants.

This theory is substantiated by other leading European nations: United Kingdom, France, Italy and Spain, their ranking as leading global arms exporters and the controversial destinations of their goods. Which have Algeria, China, Egypt, India, Indonesia, Oman, Qatar, Saudi-Arabia and the United Arab Emirates as main clients (Fleurant et al, 2016, 2017; Wezeman et al, 2018, 2019, 2020). Unlike Germany, these did not halt arms exports to Saudi-Arabia in the aftermath of the killing of Mr. Khashoggi, despite multiple legal challenges across the EU (Maletta, 2019). Yet, this issue prompted critique of Germany, as its relatively more restrictive implementation of export controls endangers the global competitiveness of multinational European defense firms. Hampering further European collaboration in the defense industry and in extension efforts to come to a more cohesive and effective European Defense and Security Policy. Which is of increased relevance now with Brexit, deteriorated relations with the US and increased military posturing by China and Russia.

This calls to question the future of the Common Position as a whole. As its ambiguity has largely enabled larger EU-members to continue business as usual, while disproportionately disadvantaging smaller members. This discrepancy has not gone unnoticed though, especially with the use of article 346, having nations like the Netherlands consider a less restrictive approach too. Further undercutting the Common Position, casting serious doubt on the effectiveness of the regime and ultimately hurting the ability of the EU to project itself as a normative power on the global stage.

7.2 Theoretical reflection and discussion

The notion of the European Union as a normative power has us reflect on the theoretical framework employed. The assumption made that shared beliefs and ideas are the foundation of the EU and in extension the regime of the Common Position, holds partial truth as all EU-members have committed to these new norms. Substantiating Manners' claim that the EU power lies in its ability to conduce humanitarian norms, as it has done earlier with the abolishment of the death penalty (2002). Similarly, Erickson argues that Western states commit because they desire to be perceived as responsible citizens to improve their international reputation (2015). The commitments to upholding shared ideals may indeed reflect the EU's foundations and the responsible image it identifies itself with. But compliance with the Common Position reveals a whole different game, a two-level game, with its members more inclined to consider material motivations when deciding on arms exports to controversial destinations. This discrepancy is made possible by the ambiguity of the Common Position, which enables a wide range of interpretations conducive to a wide range of participants. However, this simultaneously weakens the effectiveness of the regime as more prominent EU-members are inclined to implement arms export control less restrictively, inducing other to follow. Their compliance practice corroborates a more rationalist reading with more prominent states perceiving less risk in operating on the fringes of international agreements than less prominent states. With only the incidental scandal forcing leaders under pressure in the domestic arena to match their policy practice to international commitments on arms export control. For the most part, these assertions are in line with Erickson's explanations. However, this reflex to further restrict arms export following the killing of Mr. Khashoggi in the case of Germany was only temporary, unilateral and not indicative of substantial change in policy implementation. This largely refutes Erickson's assertion that states with higher levels of transparency and civic engagement are more restrictive in their arms export control because of increased threat of scandal. Especially as other leading EU-members with plausibly similar levels of transparency and civic engagement did not follow suit. Instead, this thesis asserts that more prominent states with a matching defence industry are less restrictive in the implementation of arms export control agreements as compliance imposes greater costs on them than on less prominent states.

Ultimately, this casts doubt on the nature of the Common Position and in extension that of the EU itself. Are they the product of negotiations between enemies in favor of the strongest actor, or the result of rivals agreeing to encourage a level playing field to the benefit of all or maybe as a mutual undertaking reflecting shared ideals? Perhaps, they all account for some aspect. However, the implementation of the Common Position largely refutes a Kantian view, with humanitarian commitments framing practices for a favorable international reputation. In addition, the tendency of more prominent EU-members to implement the Common Position less restrictively, much resembles business as usual, while disadvantaging smaller members. Substantiating a rationalist view of the regime and indicating a Lockean nature at the heart of the EU.

To bolster the EU's normative aspirations, the Common Position should be strengthened by implementing post-shipment controls and make government decisions on arms exports accountable in legal courts. To advocate these measures and improve understanding of international arms export control agreements, the assertions of this thesis need to be ascertained. Employing a policy subsystem approach has proven prudent in acquiring an in-depth understanding on the workings of the Common Position and advisable when studying international regimes. However, to proof the findings of this thesis it would be prudent to quantitatively test if there is a significant difference in implementation of the Common Position between EU-members with more or less prominent roles on the international stage. Perhaps through adopting the notion of geopolitical codes, a concept in political geography which attempts to encapsulate the role of states in the world order, may prove a stepping stone for future research (Flint, 2016). To conclude, it is strongly recommended that research into this subject continues and attention is given to the current failings of the Common Position as it seriously compromises cooperation on European security and is detrimental to local populations in conflict regions where violence is fueled by European weapons.

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