



## ASSEMBLY — 35TH SESSION

### EXECUTIVE COMMITTEE

- Agenda Item 14: Aviation security**  
**14.1: Developments since the 33rd Session of the Assembly**

#### **THREAT TO CIVIL AVIATION POSED BY MAN-PORTABLE AIR DEFENCE SYSTEMS (MANPADS)**

##### **SUMMARY**

In the light of the threat posed to civil aviation by man-portable air defence systems (MANPADS), other surface-to-air missiles systems, light weapons and rocket propelled grenades, the Council presents a draft Assembly Resolution aimed at strengthening the aviation community's efforts to address this serious threat.

Action by the Assembly is in paragraph 6.

##### **REFERENCES**

Doc 9790, *Assembly Resolutions in Force* (as of 5 October 2001)

## 1. INTRODUCTION

1.1 The Council, during its 171st Session, considered a report on acts of unlawful interference with civil aviation which occurred in 2003. Concerns were expressed regarding the specific threat to civil aviation posed by man-portable air defence systems (MANPADS) and the Council concluded that the existing Assembly Resolution A32-23: *MANPADS Export Control* is no longer adequate and that a more far-reaching resolution is now required. The Council also requested the Secretariat to provide information that would enable the Council to explore the possible development of a legal instrument on the subject of MANPADS.

1.2 Following up on this matter during its 172nd Session, the Council explored the possible development of a legal instrument regarding the threat posed by MANPADS against civil aviation. It concluded that any duplication with other bodies, particularly in the United Nations system, should be avoided and that the new resolution on MANPADS should focus on existing regional and international initiatives.

1.3 This paper identifies the threat posed by MANPADS, draws attention to the *Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, Elements for Export Controls of MANPADS* and to relevant developments within the United Nations system, and presents a draft resolution in Appendix A for the Assembly's consideration.

## 2. THREAT POSED BY MANPADS

2.1 MANPADS have been in the hands of both State and non-State groups and individuals for more than 30 years. During this period, they have been deployed against civilian aircraft in over 40 incidents, more than half of which were successful, killing almost 600 people. Currently, the global inventory could be more than 500,000 units, according to public and States' sources. In the past two years, there have been significant incidents involving MANPADS in Iraq and Kenya. It is therefore confirmed that MANPADS attacks are one of the major threats posed to civil aviation.

## 3. WASSENAAR ARRANGEMENT

3.1 The *Wassenaar Arrangement* ([www.wassenaar.org](http://www.wassenaar.org)) involves 33 States: Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Poland, Republic of Korea, Portugal, Romania, Russian Federation, Slovakia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom and the United States. Representatives of participating States meet regularly in Vienna, Austria where the Secretariat of the *Wassenaar Arrangement* is located.

3.2 The *Elements for Export Controls of MANPADS of the Wassenaar Arrangement* detail national export controls applicable to the international transfer or retransfer of MANPADS, including complete systems, components, spare parts, models, training systems, and simulators, for any purpose, by any means, including licensed export, sale, grant, loan, lease, co-production or licensing arrangement for production. A copy of the *Elements for Export Controls of MANPADS*, Vienna, December 2003 of the *Wassenaar Arrangement* is presented in Appendix B to this working paper for the Assembly's information.

## 4. DEVELOPMENTS IN THE UN SYSTEM

4.1 At its fifty-eighth session, the United Nations General Assembly adopted resolution 58/241 of 23 December 2003, "*The illicit trade in small arms and light weapons in all its aspects*", by which it decided, *inter alia*, to establish an open-ended working group to negotiate an international instrument to enable States to identify and trace, in a timely and reliable manner, illicit small arms and light weapons.

4.2 In resolution 58/54 (8 December 2003) "*Transparency in armaments*", the General Assembly endorsed a report of the Secretary-General on the continuing operation and further development of the UN Register of Conventional Arms, and decided to adapt the scope of the Register in conformity with the report's recommendations which included, *inter alia*, the exceptional inclusion of MANPADS transfers in category VII of the Register, "Missiles and missile launchers". The Register was established in 1992, and is a voluntary reporting instrument that covers seven major categories of conventional arms including, *inter alia*, missiles and missile launchers. Its primary emphasis is on international transfers (exports and imports),

although participating Governments are also encouraged to provide data on procurement through national production and on their military holdings.

## 5. **FINANCIAL IMPACT OF THE PROPOSED ACTION<sup>1</sup>**

5.1 The proposals in this paper are largely aimed at States. The work involved for the Secretariat is expected to be undertaken within the resources available under Programme 3.9, Aviation Security, of the Draft Programme Budget 2005-2007. If necessary, use would be made of voluntary contributions from States to the Enhanced Aviation Security Mechanism.

## 6. **ACTION BY THE ASSEMBLY**

6.1 The Assembly is invited to examine and adopt the draft resolution presented in Appendix A to this working paper.

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<sup>1</sup> This information is presented only to indicate the estimated financial impact of the proposed action. The funds allocated to this proposed action will depend upon the final form of the Programme Budget of the Organization for 2005 - 2006 - 2007 approved by the Assembly.

## APPENDIX A

### DRAFT ASSEMBLY RESOLUTION ON THE THREAT TO CIVIL AVIATION POSED BY MAN-PORTABLE AIR DEFENCE SYSTEMS (MANPADS)

#### Resolution 14/

#### Threat to civil aviation posed by man-portable air defence systems (MANPADS)

*Expressing its deep concern* regarding the global threat posed to civil aviation by terrorist acts, in particular the threat posed by man-portable air defence systems (MANPADS), other surface-to-air missiles systems, light weapons and rocket propelled grenades;

*Recalling* its Resolution A33-1: *Declaration on misuse of civil aircraft as weapons of destruction and other terrorist acts involving civil aviation*, which directs the Council and the Secretary General to act urgently to address the new and emerging threats to civil aviation;

*Recalling* United Nations General Assembly resolutions 58/241 *on the illicit trade in small arms and light weapons in all its aspects* and 58/54 *on transparency in armaments*;

*Welcoming* the *Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, Elements for Export Controls of MANPADS* and the *Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and other Related Material*;

*Welcoming* the ongoing efforts of other international and regional organizations aimed at developing a more comprehensive and coherent response to the threat to civil aviation posed by MANPADS;

*Recognizing* that the specific threat posed by MANPADS requires a comprehensive approach and responsible policies on the part of States; and

*Considering* that its Resolution A32-23: *MANPADS Export Control* is no longer adequate and that a more far-reaching resolution is now required;

*The Assembly:*

1. *Urges* all Contracting States to take the necessary measures to exercise strict and effective controls on the import, export, transfer or retransfer, as well as storage of MANPADS;

2. *Calls upon* all Contracting States to cooperate at the regional and subregional levels with a view to enhancing and coordinating international efforts aimed at implementing effective countermeasures and combatting the threat posed by MANPADS;

3. *Calls upon* all Contracting States to take the necessary measures to ensure the destruction of non-authorized MANPADS in their territory, as soon as possible;

4. *Urges* all Contracting States to actively participate in the development of an international instrument for the purpose of identifying and tracing illicit small arms and light weapons as referred to in the United Nations General Assembly resolution 58/241 *on the illicit trade in small arms and light weapons in all its aspects*;

5. *Urges* all Contracting States to apply the principles defined in the *Elements for Export Controls of MANPADS* of the *Wassenaar Arrangement*, if they have not yet participated in the Arrangement; and

6. *Declares* that this resolution supersedes Resolution A32-23: *MANPADS Export Control*.

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## APPENDIX B

### The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies

#### Elements for Export Controls of Man-Portable Air Defence Systems (MANPADS)

(Agreed at the 2003 Plenary)

*Recognising* the threats posed by unauthorised proliferation and use of Man-Portable Air Defence Systems, especially to civil aviation, peace-keeping, crisis management and anti-terrorist operations, Participating States affirm that they apply strict national controls on the export of MANPADS.

#### 1. Scope

1.1 These Elements cover:

- a) surface-to-air missile systems designed to be man-portable and carried and fired by a single individual; and
- b) other surface-to-air missile systems designed to be operated and fired by more than one individual acting as a crew and portable by several individuals.

1.2 National export controls apply to the international transfer or retransfer of MANPADS, including complete systems, components, spare parts, models, training systems, and simulators, for any purpose, by any means, including licensed export, sale, grant, loan, lease, co-production or licensing arrangement for production (hereafter "export"). The scope of export regulation and associated controls includes research, design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, servicing, modification, upgrade, modernisation, operation, use, replacement or refurbishment, demilitarisation, and destruction of MANPADS; technical data, software, technical assistance, demonstration, and training associated with these functions; and secure transportation, storage. This scope according to national legislation may also refer to investment, marketing, advertising and other related activity.

1.3 Any activity related to MANPADS within the territory of the producing country is subject to national laws and regulations.

#### 2. Control Conditions and Evaluation Criteria

2.1 Decisions to permit MANPADS exports will be made by the exporting government by competent authorities at senior policy level and only to foreign governments or to agents specifically

authorised to act on behalf of a government after presentation of an official EUC certified by the Government of the receiving country.

2.2 General licences are inapplicable for exports of MANPADS; each transfer is subject to an individual licensing decision.

2.3 Exporting governments will not make use of non-governmental brokers or brokering services when transferring MANPADS, unless specifically authorised to on behalf of the government.

2.4 In order to prevent unauthorised use, producer countries will implement technical performance and/or launch control features for newly designed MANPADS as such technologies become available to them. Such features should not adversely affect the operational effectiveness of MANPADS for the legal user.

2.5 Exporting governments in the Wassenaar Arrangement will report transfers of MANPADS as part of the Arrangement's Specific Information Exchange reporting requirements.

2.6 MANPADS exports will be evaluated in the light of the Wassenaar Arrangement Initial Elements and the Wassenaar document "Elements for Objective Analysis and Advice Concerning Potentially Destabilising Accumulations of Conventional Weapons" and any subsequent amendments thereto.

2.7 Decisions to authorise MANPADS exports will take into account:

- Potential for diversion or misuse in the recipient country;
- The recipient government's ability and willingness to protect against unauthorised re-transfers, loss, theft and diversion; and
- The adequacy and effectiveness of the physical security arrangements of the recipient government for the protection of military property, facilities, holdings, and inventories.

2.8 Prior to authorising MANPADS exports, the exporting government will assure itself of the recipient government's guarantees:

- not to re-export MANPADS except with the prior consent of the exporting government;
- to afford requisite security to classified material and information in accordance with applicable bilateral agreements, to prevent unauthorised access or compromise;
- to inform promptly the exporting government of any instance of compromise, unauthorised use, loss, or theft of any MANPADS material.

2.9 In addition, the exporting government will satisfy itself of the recipient government's willingness and ability to implement effective measures for secure storage, handling, transportation, use of MANPADS material, and disposal or destruction of excess stocks to prevent unauthorised access and use. The recipient government's national procedure designed to attain the requisite security include, but are not

limited to, the following set of practices, or others that will achieve comparable levels of protection and accountability:

- Written verification of receipt of MANPADS shipments.
- Inventory by serial number of the initial shipments of all transferred firing mechanisms and missiles, if physically possible; and maintenance of written records of inventories.
- Physical inventory of all MANPADS subject to transfer, at least once a month; account by serial number for MANPADS components expended or damaged during peacetime.
- Ensure storage conditions are sufficient to provide for the highest standards of security and access control. These may include:
  - Where the design of MANPADS permits, storing missiles and firing mechanisms in locations sufficiently separate so that a penetration of the security at one site will not place the second site at risk.
  - Ensuring continuous (24-hour per day) surveillance.
  - Establishing safeguards under which entry to storage sites requires the presence of at least two authorised persons.
- Transport MANPADS in a manner that provides for the highest standards and practices for safeguarding sensitive munitions in transit. When possible, transport missiles and firing mechanisms in separate containers.
- Where applicable, bring together and assemble the principal components - typically the gripstock and the missile in a launch tube - only in the event of hostilities or imminent hostilities; for firing as part of regularly scheduled training, or for lot testing, for which only those rounds intended to be fired will be withdrawn from storage and assembled; when systems are deployed as part of the point defences of high priority installations or sites; and in any other circumstances which might be agreed between the receiving and transferring governments.
- Access to hardware and any related classified information will be limited to military and civilian personnel of the receiving government who have the proper security clearance and who have an established need to know the information in order to perform their duties. Any information released will be limited to that necessary to perform assigned responsibilities and, where possible, will be oral and visual only.
- Adopt prudent stockpile management practices that include effective and secure disposal or destruction of MANPADS stocks that are or become excess to national requirements.

2.10 Participating States will, when and as appropriate, assist recipient governments not capable of executing prudent control over MANPADS to dispose of excess stockpiles, including buying back previously exported weapons. Such measures are subject to a voluntary consent of the exporting government and the recipient state.



2.11 Exporting governments will share information regarding potential receiving governments that are proven to fail to meet the above export control guarantees and practices outlined in paragraphs 2.8 and 2.9 above.

2.12 To enhance efforts to prevent diversion, exporting governments will share information regarding non-state entities that are or may be attempting to acquire MANPADS.

3. Participating States will ensure that any infringement of export control legislation, related to MANPADS, is subject to adequate penalty provisions, i.e. involving criminal sanctions.

4. The Participating States will exchange information and review progress related to the implementation of these steps regularly.

5. Participating States agree to promote the application of the principles defined in these Elements to non-Wassenaar members.

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