

EU legislation on SALW and its practical implications

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The second formal regional meeting of SALW Commissions
Jahorina, 24-25 June 2014

Presentation

- **Flemish Peace Institute**
- **Key EU legislation on SALW**
- **Issues**
 - From paper to reality
 - Need for evidence-inspired policy

Flemish Peace Institute

- **Established by Decree in 2004**
- **Research**
 - Arms trade and production
 - Legal framework (FL, BE, EU, UN) and control regimes
 - Defence industry
 - Firearms
 - Transshipment
 - Export control lists
 - ...
 - Peace and society

Flemish Peace Institute

- Advice

- Annual report of government
- Flemish Arms Decree
- Transparency
- Marking of ammunition
- Brokering
- Cooperation agreements
- ...

- Documentation

- Platform

Key EU legislation on SALW

- **Distinctions between:**
 - Firearms (civilian) – SALW (military equipment)
 - Transfers within EU – export outside EU

Key EU legislation on SALW

- **Directive 91/477/EEC on control of the acquisition and possession of weapons**
 - Amended in May 2008 (Directive 2008/51)
 - Focus: private citizens
 - Motive: no more internal borders
 - need for coordinated regulations
 - Minimal requirements that need to be implemented in national legislation

Key EU legislation on SALW

- 4 categories of firearms with different rules
 - A: Prohibited firearms
 - B: Firearms subject to authorization
 - C: Firearms subject to declaration
 - D: Other firearms
- Other requirements:
 - Legitimate reason, age requirements, public safety
 - Marking and registration of firearms
 - Authorization for arms dealers
 - Procedures for transfers within EU

Key EU legislation on SALW

Transfer within EU

Export outside EU

Civilian

Directive 91/477/EC

Regulation 258/2012

Military

Directive 2009/43/EC

Common Position 2008/944/CFSP

Key EU legislation on SALW

	Transfer within EU	Export outside EU
Civilian	Directive 91/477/EC	Regulation 258/2012
Military	Directive 2009/43/EC	Common Position 2008/944/CFSP

Key EU legislation on SALW

Directive 91/477/EC

- Requirements that need to be implemented in national legislation
 - License required for transfer
 - Authorization for transfers between arms dealers
 - European firearms pass

Key EU legislation on SALW

	Transfer within EU	Export outside EU
Civilian	Directive 91/477/EC	Regulation 258/2012
Military	Directive 2009/43/EC	Common Position 2008/944/CFSP

Key EU legislation on SALW

Regulation 258/2012

- Focus: private citizens - firearms for civilian use
- License required for export
 - Approval of import by country of destination
- Considerations:
 - International obligations and commitments
 - National foreign and security policy
 - Intended end use, (final) recipient and risk of diversion
- Confidential denial notification

Key EU legislation on SALW

	Transfer within EU	Export outside EU
Civilian	Directive 91/477/EC	Regulation 258/2012
Military	Directive 2009/43/EC	Common Position 2008/944/CFSP

Key EU legislation on SALW

Common Position 2008/944/CFSP

- Successor of Code of Conduct (1998), but legally binding
- Common list of military equipment
- License required for “export”
 - Case-by-case basis
 - 8 assessment criteria
 - reliable prior knowledge of end use
- Confidential denial notification
- User’s guide

Key EU legislation on SALW

	Transfer within EU	Export outside EU
Civilian	Directive 91/477/EC	Regulation 258/2012
Military	Directive 2009/43/EC	Common Position 2008/944/CFSP

Key EU legislation on SALW

Directive 2009/43/EC

- Requirements that need to be implemented in national legislation
- Focus: simplify rules and procedures for intra-Community transfers
 - General licenses
 - Global licenses
 - Individual licenses
- Possibility of export limitations

Key EU legislation on SALW

Transfer within EU

Export outside EU

Civilian

Directive 91/477/EC

Regulation 258/2012

Military

Directive 2009/43/EC

Common Position 2008/944/CFSP

Key EU legislation on SALW

- Other documents

- Arms embargoes
- Policy documents on SALW
 - EU Strategy to combat illicit accumulation and trafficking of SALW and their ammunition (5319/06)
 - Combating crime involving arms and explosives (8310/2/07)
 - European Action Plan to combat illegal trafficking in “heavy” firearms for criminal activities (2-3/12/2010)
 - EC Communication on firearms and internal security of EU (21/10/2013)
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Issues

From paper to reality

- Review of Common Position 2008/944/CFSP
- Impact of Arab Spring?

Issues



Issues



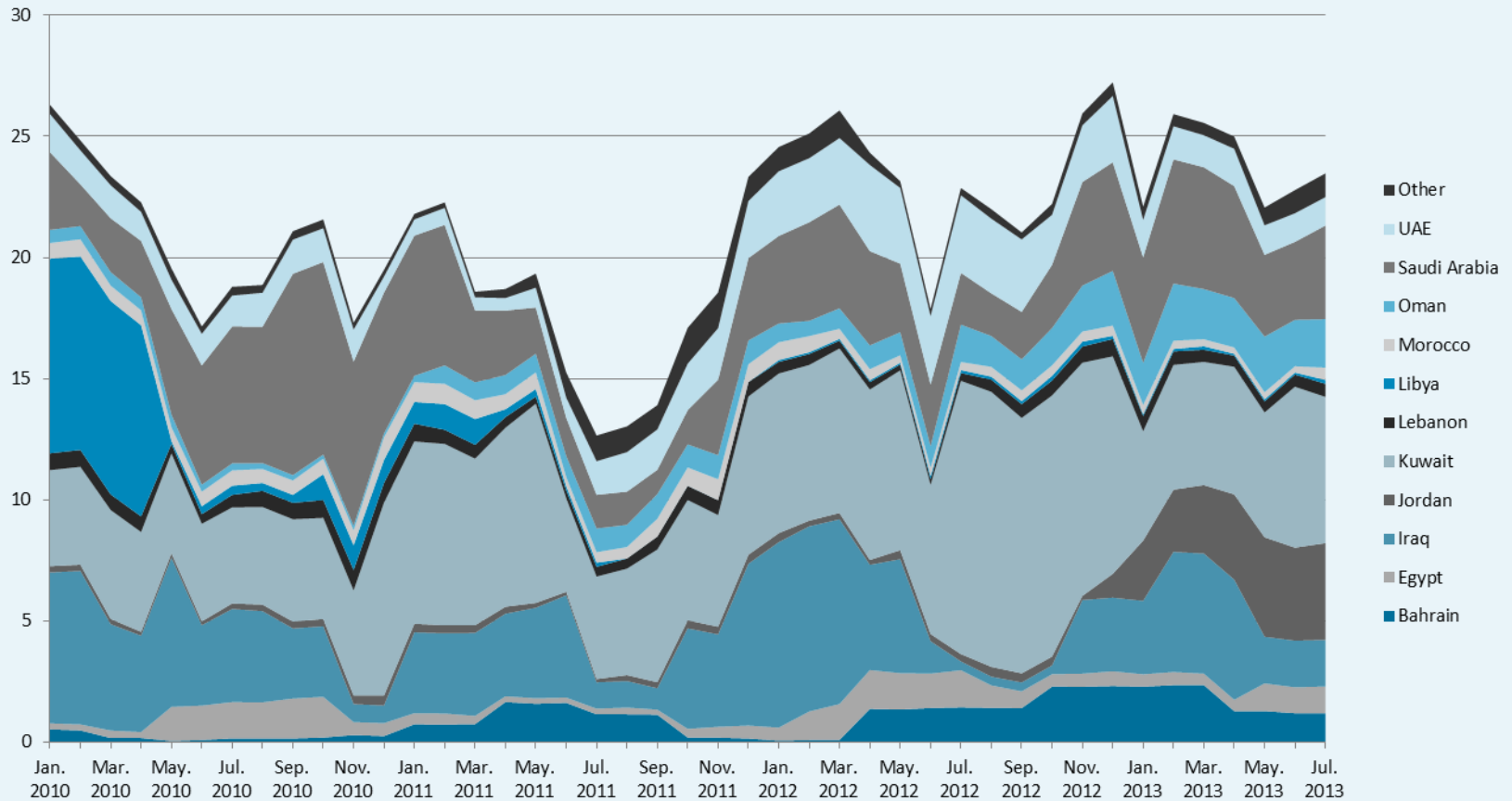
Issues

From paper to reality

- Review of Common Position 2008/944/CFSP
- Impact of Arab Spring?
 - Not led to substantially more restrictive arms export policies

Issues

Trend-indicator for EU export of “arms and ammunition”, per recipient country



Source: Marsh (PRIO) / Eurostat

Issues

From paper to reality

→ Review of Common Position 2008/944/CFSP

→ Impact of Arab Spring?

- Not led to substantially more restrictive arms export policies
- Not significantly strengthened the process of harmonization

→ Conclusion of review

→ Consequences for CFSP?

Issues

Need for evidence-inspired policy

- Review of Directive 91/477/EC (by July 2015)
- Impact of Directive?
 - Outsourced research projects
 - Illegal use and acquisition of firearms
 - Increasing policy attention
 - Little knowledge

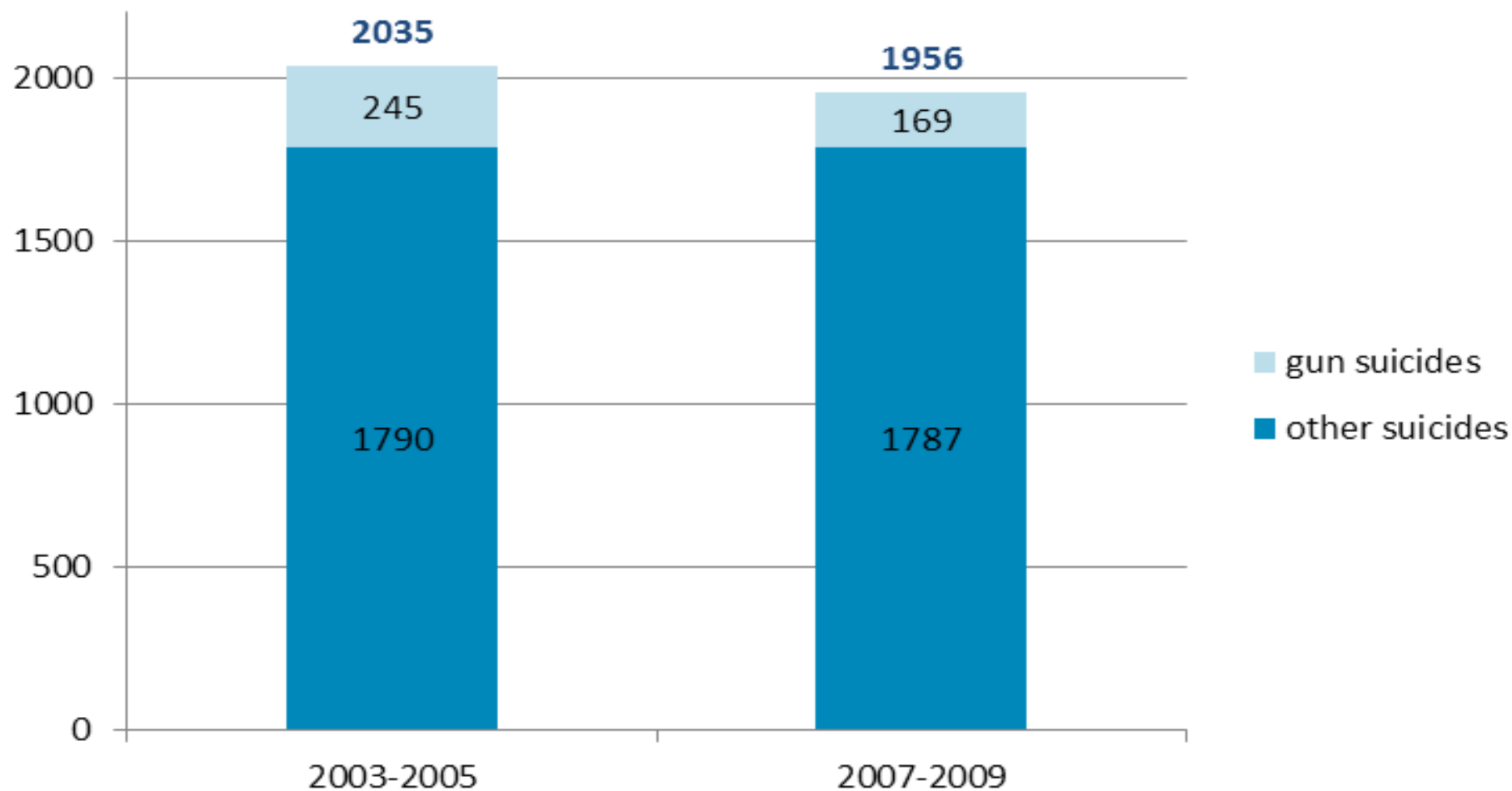
Issues

Need for evidence-inspired policy

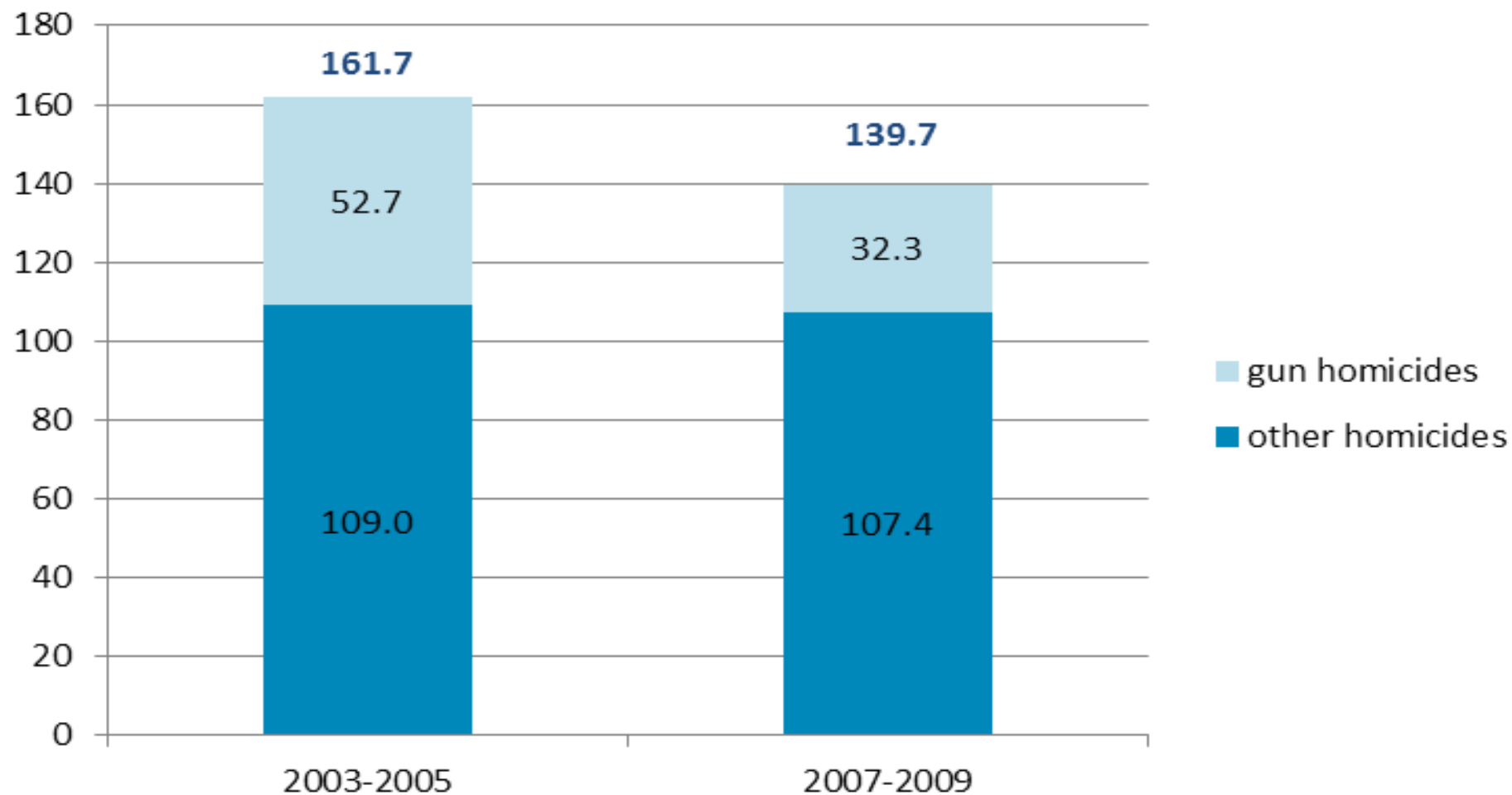
→ Review of Directive 91/477/EC

- Illegal use of firearms:
 - Broad range of activities
 - Mortality
 - International literature
 - Go beyond mere correlations
 - Case Belgium

Belgium - suicides



Belgium - homicides



Issues

Need for evidence-inspired policy

→ Review of Directive 91/477/EC

- Illegal acquisition:

- Go beyond trafficking of heavy firearms
- From export to domestic
- Need for better intelligence picture





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