

NO MORE DELAYS

PUTTING AN END TO THE
EU TRADE IN “TOOLS OF
TORTURE”

**AMNESTY
INTERNATIONAL**



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EXECUTIVE SUMMARY

This report presents findings by Amnesty International and the Omega Research Foundation (Omega) from their on-going assessment of the efficacy and implementation of **Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment** (the Regulation). The report includes new evidence that companies operating in a number of Member States have marketed or promoted equipment that is prohibited under the Regulation. Other companies have traded in equipment which although not currently prohibited by the Regulation can be readily used to facilitate torture or ill-treatment, and should either be banned or stringently controlled forthwith.

On the 16th November 2011 representatives of Amnesty International and Omega presented their joint findings to the Committee on Common Rules for Exports of Products (the Committee), which reports to the European Commission. On 20th December 2011, following a formal review of the Regulation and its implementation, the Commission introduced binding measures¹ strengthening the Regulation's controls in three areas that had previously been highlighted by Amnesty International and Omega, thereby:

1. **1Extending** the existing prohibition in the Regulation on 'electric-shock belts' to cover 'stun-cuffs' , 'stun sleeves' and any other electric-shock devices 'which are intended to be worn on the body by a restrained individual'. All such items are now included in the list of prohibited items (Annex II (2, 2.1)).
2. **Adding** spiked batons, to Annex II of the Regulation, and thereby prohibiting their import and export (Annex II (3)).
3. **Extending** the scope of Annex III of the Regulation to include, and thereby controlling the export of, certain drugs which could be used for the execution of human beings, such as sodium thiopental and pentobarbital (Annex III (4)).

Amnesty International and Omega welcome these developments and call on the Commission and EU Member States to ensure that they are fully implemented throughout the European Union.

The Commission has also agreed to set up an 'expert group' to assist with a wider-ranging review of the regulation and its implementation, including possible amendment of the Regulation itself. We therefore call on this expert group to propose that the Commission and Member States further strengthen the Regulation and its implementation by:

1. **Extending** the prohibition on spiked batons to include spiked shields and any other spiked device designed to inflict ill-treatment.
2. **Adding** thumb and finger restraints purposely designed to cause discomfort or pain (such as those with serrated edges) to the list of prohibited items (Annex II) of the Regulation. "Thumbscrews" should be reclassified from the list of controlled items (Annex III) to the list of prohibited items (Annex II).

3. **Reclassifying** fixed leg irons, bar fetters, and any leg restraint purposely designed to cause discomfort (such as weighted leg cuffs) from the list of controlled items (Annex III) to the list of prohibited items (Annex II). EU Member States should ensure that other forms of leg restraint such as chain-linked leg cuffs are not exported to end-users where there are reasonable grounds that such items might be used in torture or other ill-treatment.
4. **Consider adding** restraint chairs to Annex II of the Regulation so that their import and export is prohibited.
5. **Extending** the scope of the Regulation to include the full range of drugs currently used in executions including pancuronium bromide and propofol in Annex III, and thereby prohibiting export where there is a risk that such equipment may be used for executions. In addition the scope of the Regulation should be **further extended** to cover (and prohibit) the transfer of pharmaceutical drugs intended for use in torture or cruel, inhuman or degrading treatment or punishment.
6. **Introducing** a “torture and death penalty end-use catch-all” clause to the Regulation.
7. **Amend** the Regulation to prohibit the promotion and marketing of goods in Annex II and ensure that all such goods held by companies are verifiably destroyed.
8. **Amend** the Regulation to prohibit brokering of the transfer of Annex II listed goods and control the brokering of Annex III goods.

Furthermore **all Member States** that have not done so should compile public annual activity reports in accordance with their Article 13(3) obligations. All Member States’ annual activity reports should form part of a formal Regulation review process undertaken by the Committee on Common Rules for Exports of Products.

The Commission should take a more proactive role in promoting the reporting and transparency process: for example, by developing a model framework report to guide States in compilation of their annual reports, and by publishing all annual reports on a dedicated website so that parliaments and the public can exercise a reasonable degree of oversight.

1. INTRODUCTION

The prohibition on torture and other cruel, inhuman or degrading treatment or punishment is absolute. It applies in all circumstances and, as part of international customary law, to all States.² Despite such obligations, torture is still variously perpetrated in countries in all regions of the world, and capital punishment is still carried out in several countries. UN independent experts, UN bodies, and non-governmental human rights organizations have documented the trade and use of different types of equipment to commit such torture and other ill-treatment, and to carry out capital punishment.

In 2006 the European Union (EU) introduced the world's first multilateral trade controls to prohibit the international trade in equipment which has no practical use other than for the purposes of capital punishment, torture or other cruel, inhuman or degrading treatment or punishment³; and to control the trade in a range of policing and security equipment misused for such violations of human rights. 'Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment'⁴ (the Regulation) fills a major gap in human-rights-based export controls. It introduced unprecedented, binding trade controls on a range of equipment which is often used in capital punishment, torture and other ill-treatment, but which has not usually been included on EU Member States' military, dual-use or strategic export control lists.

In March 2010, Amnesty International and Omega released a report entitled "*From Words to Deeds: making the EU ban on the trade in 'tools of torture' a reality*"⁵ highlighting limitations in crucial provisions of the Regulation and instances of variable and poor implementation of the Regulation amongst Member States. Amnesty International and Omega have subsequently raised these specific concerns with the European Commission and Member States.⁶ In addition, the European Parliament passed a Resolution urging the Commission and Member States to implement a range of measures to strengthen the Regulation and ensure its full adherence.⁷

Growing international concern about the supply of equipment to law enforcement agencies used in torture and other ill-treatment was also reflected on 8th November 2011 in the United Nations General Assembly Third Committee. Member States took action on a draft resolution presented by Denmark with 83 State sponsors from around the world entitled: *Torture and other cruel, inhuman or degrading treatment or punishment*, which, in paragraph 24, adopted a similar approach to the EU: "*Calls upon all States to take appropriate effective legislative, administrative, judicial and other measures to prevent and prohibit the production, trade, export, **import** and use of equipment **that have no practical***

use other than for the purpose of torture or other cruel, inhuman or degrading treatment or punishment." [Changes to the previous UNGA resolutions on this subject are shown in bold] ⁸

On the 16th November 2011, representatives of Amnesty International and Omega presented the organisations' findings regarding their on-going assessment of the implementation of the Regulation, to the Committee on Common Rules for Exports of Products (the Committee), which reports to the European Commission. On 20th December 2011, following a formal review of the Regulation and its implementation, the Commission published Commission Implementing Regulation (EU) No 1352/2011 which updated and strengthened the Regulation's controls in three areas – body worn electric-shock devices, spiked batons and pharmaceutical chemicals utilised in capital punishment.⁹ On 2 March 2012, the Commission launched a call for applications to a new 'expert group', which will assist with a further in-depth review of the Regulation this year. This group will also look at how to address the outstanding issues in the 2010 Parliament resolution and whether there is a need for legislative follow-up.

In order to facilitate the work of this expert group, the on-going work of the European Commission, the Committee and Member States, and to inform the European Parliament, Amnesty International and Omega have prepared this report to provide a summary of further information on the implementation of the Regulation.

We conclude that:

The Regulation remains inadequately implemented in several EU Member States;

traders in some EU Member States offered for sale equipment which under the existing Regulation is explicitly prohibited for import and export to and from the European Union because it has no other practical purpose than for torture or other ill-treatment;

loopholes in the Regulation have allowed traders in EU Member States to undertake unregulated trading activities in a range of equipment and services that has been used for capital punishment, torture and other ill-treatment by military, security and law enforcement personnel around the world. These loopholes were only partially addressed by the Commission's amendments to the Regulation of the 20th December 2011.

2. KEY CHALLENGES REGARDING PROHIBITED AND CONTROLLED EQUIPMENT

2.1 ELECTRIC-SHOCK BELTS

Article 4 of the Regulation prohibits the import or export of any item listed in Annex II, which has no practical use other than for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. Annex II lists, among other items:

Electric-shock belts designed for restraining human beings by the administration of electric shocks having a no-load voltage exceeding 10 000 V.

Unlike other electric-shock devices, stun belts are intended for attachment to prisoners' bodies and worn, sometimes for hours at a time, with the constant threat that they can be remotely activated at any moment. Prison officers can activate the belts currently marketed by using remote control devices from up to 100 meters away. On activation, a typical electric-shock belt delivers a shock of 50,000 volts.¹⁰ Such devices typically generate a high-voltage 'pulse current' that enters the prisoner's body at the site of the electrodes, often near the kidneys, and passes through the body. The shock causes incapacitation in the first few seconds and severe pain whilst the shock is maintained. Amnesty International has argued that *"the belt relies on the prisoner's constant fear of severe pain being inflicted at any time while held in a situation of powerlessness."*¹¹ Such belts have been used in the USA and South Africa.¹²

Amnesty International and Omega believe that the use of such electric-shock belts is inherently cruel, inhuman or degrading, and since 2001 have called for their manufacture, transfer and use to be banned. In 1999, the UN Committee Against Torture recommended that electric-shock belts should be *"abolish(ed)... as methods of restraining those in custody"*¹³ and in 2010, the Council of Europe's Committee for the Prevention of Torture expressed its opposition to *"the use of electric stun belts for controlling the movement of detained persons, whether inside or outside places of deprivation of liberty"*¹⁴

(i) Marketing of electric-shock belts

Although the Regulation specifically bans the import and export of electric-shock belts, research by Amnesty International and Omega indicates that these devices have been marketed by companies based in Member States.

Denmark and Germany

The Danish company Filcotech ApS has marketed a range of security products including self-defence equipment such as irritant sprays, alarms and electric-shock devices.¹⁵ A screenshot of the products list originally taken from the company website (below right) and which was still active as of 19th January 2012 shows the 'High Voltage Security Transit Belt'. This belt is visually similar to the 'Anti' Scape Stun Belt' produced by a South African based manufacturer of electric-shock equipment, Force Group, which delivers a 50,000 volt shock (below left).¹⁶ The Filcotech ApS company product list stated that, "All prices are based on FOB [free on board], Johannesburg, SA[South Africa]", indicating that the belts may be of South African origin.

Another company, Beka International based in Germany, has offered to supply a range of police and security equipment. The Beka International website as of 26th June 2012 was displaying an 'anti'scape stun belt'.¹⁷ Once again the belt (below centre) is visually similar to the 'Anti 'Scape Stun Belt' produced by Force Group based in South Africa.



Images of electric-shock belts promoted by: Force Group (left)¹⁸, Beka International (centre)¹⁹ and Filcotech ApS (right).²⁰

If the shock delivered by the belts that have been promoted for sale by Filcotech ApS and Beka International exceed 10,000 volts, as appears likely, then these devices would fall into Annex II of the Regulation and thus the import or export of such items would be prohibited.

In response to correspondence from Amnesty International and Omega, the CEO of Filotech stated that the range of electroshock stun technology was introduced in 2011 and is now under review. He further stated that "Filcotech does not market [any electroshock stun equipment] at all in Europe and have not moved any units in or out of EU nor of course Denmark. Filcotech has not sold any stun technology equipment to any country and does not produce any stun apparatuses."²¹

Following enquiries by Amnesty International and Omega, correspondence dated 16th January 2012 was received from the Danish Enterprise and Construction Authority stating that *“we can inform you that the Danish authorities until now have not received any applications or issued any licences” since the Regulation came into force.* Furthermore the *“Danish Business Authority has initiated an investigation based on your enquiry, which will include a written consultation of Filcotech ApS.”*²²

A letter from the Danish Business Authority was received by Omega dated 10 May 2012. The letter stated that the investigation and written consultation of Filcotech ApS had been concluded. This investigation included an unannounced inspection visit of Filcotech’s premises. The letter states that: *“The result of the investigation carried out is that no illegal import or export of the electric-shock devices [sic] in general nor the specific product “High Voltage Security Transit Belt” by Filcotech ApS could be verified to have taken place. Furthermore, no technical assistance or brokering services by the company in relation to these products has been confirmed and no stock was found at Filcotech. Even so, it seems that Filcotech ApS still markets the “High Voltage Security Transit Belt” on their webpage. Accordingly, the Danish Business Authority has requested Filcotech ApS to remove the marketing of the product from the website.”*²³

Filcotech have subsequently removed all reference to the “High Voltage Security Transit Belts” from their website. Following correspondence from Amnesty International and Omega, a representative of Beka International explained that: *“although the product is on our web site, we did not sell one part of this product range and we would never have sold to European Union countries. We do not even have a sample.”* He further stated that: *“Due to import and export regulations we will not sell any part in the future as well and within the next revision of our web site we will take it off.”*²⁴

According to a representative of the German Federal Office of Economics and Export Control (BAFA) *“BAFA considers body-worn electric shock devices that can deliver shocks with a voltage of more than 10.000 V to torture a person to be controlled under 2.1 of Annex II of the Council regulation (EC) 1236/2005 (last amended by Council regulation (EC) 1352/2011) regardless of their form or design. They are thus subject to the import and export prohibition constituted in Articles 3 and 4 of the regulation.”* Furthermore *“For body-worn electric shock devices BAFA has not issued any export or brokering licences since 30.07.2006.”*²⁵

In response to questions about Beka International’s promotion of the ‘anti’ scape stun belt’, the representative stated that: *“A substantiated decision whether a particular good is listed in the annexes needs concrete technical data though.”*²⁶

Given concerns about the potential use of body worn electric-shock devices for torture and ill-treatment, Amnesty International and Omega recommend that the German and Danish Governments, as well as ensuring there is no trade in such devices, should consider prohibiting all promotion and marketing of such devices and confirm that no such devices are held by German or Danish companies. If any electric-shock belts are found they should be verifiably destroyed as soon as possible.

(ii) Imports of electric-shock belts

Hungary

In 2005, (prior to the introduction of the Regulation) the Hungarian government informed the Council of Europe's Committee for the Prevention of Torture (CPT) that 50,000 volt electric-shock belts were to be introduced in all Hungarian prisons and police establishments by the end of 2005, alongside "electric stun batons".²⁷ The Hungarian Government stated in 2006 that the "electric stun batons" referred to in the CPT's report had not been used, but provided no further information about the use of the electric-shock belts.²⁸

Amnesty International and Omega raised this specific case in the "From Words to Deeds" report and have called on the Hungarian Government to provide information as to whether the electric-shock belts were still in use; whether any technical assistance, training or any technical manuals had been imported; and if so, when such transfers occurred.²⁹

On 17th June 2010, in its Resolution on the Regulation, the European Parliament:

*"Strongly condemn[ed] any attempts by Member States or companies within the European Union to import electric-shock stun belts whose import is prohibited by Council Regulation (EC) No 1236/2005, or other electric-shock body-worn restraint devices essentially similar in effect, although legal, and urge[d] the Commission to conduct an urgent investigation to establish whether and when electric-shock stun belts or related parts, other electric-shock body-worn restraint devices, technical assistance or training have been transferred to any Member States prior to, or since, the introduction of the Regulation, to determine whether such devices have been deployed by any law enforcement or prison authorities in those countries and to report its findings to Parliament."*³⁰

On 3rd October 2011, Omega received a letter from the Hungarian Trade Licensing Office which contained a copy of correspondence originally sent to the European Commission regarding the import of the electric-shock belts, stating that:

*"As to the application of electric shocking belts objected by Amnesty International and Omega Research Foundation joint study: "From-words to Deeds" we checked the facts at the Hungarian Prison Service Head Office. (HPSHO). The Head of the Office informed us that the electric shocking belts have never [been] in use. We also learnt that the HPSHO has no such kind of goods **imported after the Regulation entered into force.**"*

*All kits are being detracted into a concentrated controlled stock gradually up to the final date of 15 November 2010.*³¹ **[Emphasis in original text]**

Following correspondence from Amnesty International and Omega requesting further information, the Hungarian Trade Licensing Office confirmed that there had been no *“import activity regarding spare parts, technical assistance, training or technical manuals of electro-shock stun belts.”*³²

Amnesty International and Omega welcome the clarification from the Hungarian Government that the electric-shock belts have not been utilised, to date. In correspondence dated 23rd January 2012, the Hungarian Trade Licensing Office informed Amnesty International and Omega of their communications with the Hungarian Prison Service Head Office (HPSHO) on this issue. *“In Hungary...destroying ... the electric-shock stun belts is legally the duty of the Hungarian Prison Service Head Office. The Hungarian Prison Service Head Office in their answer...informed us that they have examined the possibilities of the verifiable destroying of the devices. According to the Hungarian legislation, in the frame of the public procurement procedure, the Hungarian Prison Service Head Office is making hard efforts to select the appropriate company, who has the required licenses to verifiably destroy the devices, and to raise the financial background to carry it out. Following the closure of this process, the HPSHO will dispose of the destroying and will inform us about the required information/dates immediately.”*³³

However, given the concerns raised by the European Parliament, UN Committee Against Torture, the CPT and human rights organisations regarding these devices, and the continuing possession of such equipment by the Hungarian authorities, Amnesty International and Omega strongly recommend that all electric-shock belts be verifiably destroyed by the Government of Hungary as soon as possible.

2.2 ELECTRIC-SHOCK CUFFS AND OTHER ELECTRIC-SHOCK DEVICES ATTACHED TO THE HUMAN BODY

The use of any electric-shock device attached to the human body and designed for use on prisoners or detainees cannot be justified under international law prohibiting torture or other ill-treatment, and UN standards on the use of force by law enforcement officials, which require any use of force to be proportional and necessary to the achievement of a legitimate objective. Even when such electric-shock ‘restraints’ are worn by humans but not activated, they may constitute cruel, inhuman or degrading treatment, maintaining prisoners in constant fear of instant pain for as long as they are worn.

Accordingly, as discussed above, the Regulation prohibits the import or export of “electric-shock belts designed for restraining human beings by the administration of electric shocks having a no-load voltage exceeding 10,000 volts”.³⁴

However, certain companies manufacturing such electric-shock belts have also manufactured other forms of ‘electric-shock restraint devices’, based on the same technology, but designed to be placed on other human limbs or body parts. Until recently, the transfer of electric-shock cuffs or other electric-shock devices attached to the human body was not prohibited or even controlled by the Regulation, even though the effects of such devices are essentially similar to the prohibited electric-shock belts.

Amnesty International and Omega have repeatedly highlighted the Regulation’s limitations in this area and recommended that the existing prohibition in the Regulation on ‘electric-shock belts’ should be extended to cover ‘electric-shock cuffs’ and any other electric-shock devices designed for attachment to the body of a prisoner or detainee. This prohibition should cover all electric-shock restraint devices regardless of the levels of voltage and power used.

On 20th December 2011, following a formal review of the Regulation, the Commission declared: *“It is also necessary to broaden the ban on trade in electric-shock belts to cover similar body-worn devices such as electric shock sleeves and cuffs which have the same impact as electric-shock belts.”*³⁵

Consequently, Annex II of the Regulation has been amended, as follows:

*“2.1 Electric-shock devices which are intended to be worn on the body by a restrained individual, **such as belts, sleeves and cuffs**, designed for restraining human beings by the administration of electric shocks having a no-load voltage exceeding 10,000 V[olts]”*³⁶**[Emphasis added]**

Amnesty International and Omega welcome these developments and call on the Commission and EU Member States to ensure that they are fully implemented throughout the European Union. Stringent implementation by all Member States in this area is vital given the reported cases of possession or promotion of such devices by European companies.

Romania

The REACT/Band-It system produced by Stinger Systems Inc. (now Karbon Arms Inc.) in the USA, delivers repeated eight-second shocks at 50,000 volts at a rising intensity during the eight seconds.³⁷ Activated by a remote control device from up to 175 feet away, the shock can be repeated at will after a one-second delay.³⁸ Originally designed to be placed “over the left kidney area”, the device can now be worn on eight places on the human body, including limbs.³⁹ In April 2010, the IPS news agency reported⁴⁰ that Gate 4 Business, a Romanian distributor of the American manufacturer, had imported several REACT/Band it devices as samples, though the company representative stated that he had ceased to be an agent for Stinger Systems. Following the recent introduction of Commission Implementing Regulation (EU) No 1352/2011, the trade in all *“electric-shock device[s]... intended to be worn on the body by a restrained individual”* (including the REACT/Band-it device) is prohibited.

In response to correspondence from Amnesty International and Omega, a representative of Gate 4 Business srl stated that: “we imported 2 samples of stun guns without cartridges, but not the [Band-it] devices...” The representative also stated that in 2008-09 Gate 4 Business sent correspondence to the former Stinger company informing them that Gate 4 no longer wanted to be distributors of Stinger products in Romania.⁴¹

Given the contradictory information available concerning possible import of sample Band-it devices, Amnesty International and Omega recommend that the Romanian Government should investigate this case to determine whether such devices were in fact imported and if so confirm the location of all such electric-shock devices and ensure that they are verifiably destroyed as soon as possible.

Germany

A German company PKI Electronic Intelligence GmbH⁴² has marketed an extensive range of security and surveillance products including a range of electric-shock equipment. Of particular concern are its “*Stun-Cuffs for Foot, Stun-Cuffs for Hand*” which, as of 26th June 2012, were still being displayed on its website (see below)⁴³. According to the company product catalogue, the electric-shock cuffs can be remotely activated and deliver a 60,000 volt shock to the prisoner.

PKI 9355
PKI 9360

Stun-Cuffs for Foot, Stun-Cuffs for Hand

Modern electronic technologies resulted in the development of stun-cuffs, of which we offer 2 different versions. **PKI 9355** continuously transmits signals via built-in GPS transmitter which are captured by a receiver (security staff). The receiver is programmable i.e. in case the prisoner leaves certain areas an automatic alarm will be released. The position of the prisoner can be located at any time and he can be arrested immediately if he tries to escape. **PKI 9355** is designed for so-called day-release prisoner.

PKI 9360 stun-cuffs for hands find their application when taking a prisoner to the court or hospital. In case he attempts to escape the stun-cuffs are activated by remote control and transmit an electric shock of 60,000 Volt. Voltage can be adjusted according to demands of staff. You never saw an escaping person stop so quickly!

Specifications:
PKI 9355: GPS-system consisting of transmitter and receiver. Transmitter is fixed to foot-chains and only removable by personnel.

Power supply with rechargeable batteries.

PKI 9360: Handcuffs with built-in receiver are only removable by the security staff. Electric shock will only be released if it is activated by the security personnel with the encoded remote transmitter. Range max. 300 m, voltage 60,000 Volt. Power supply with rechargeable batteries.

Electric-shock Stun-Cuffs promoted by PKI Electronic Intelligence GmbH.⁴⁴

With the introduction of Commission Implementing Regulation (EU) No 1352/2011 the trade in electric-shock cuffs is now prohibited. Following enquires by Amnesty International and Omega, a representative from PKI Electronic Intelligence GmbH has stated that the company has “never sold PKI 9355 / PKI 9360 [stun-cuffs].”⁴⁵ Although the PKI representative also

stated that" *we have deleted electric shock batons from our product range and replaced [them with] non electric devices*"⁴⁶, the company has given no indication of whether it produced stun cuffs, nor detailed the number of devices it currently possesses (if any) nor provided any details of whether it will continue to promote such devices.

In correspondence with Amnesty International and Omega, the German Federal Office of Economics and Export Control (BAFA) stated that they considered body-worn electric shock devices that delivered electric shocks greater than 10.000 V to be controlled under the Regulation, with their import and export prohibited. They confirmed that no brokering or export licences had been granted for such equipment.⁴⁷

In response to questions about the electric-shock stun-cuffs promoted by PKI, the BAFA representative replied *"A substantiated decision whether a particular good is listed in the annexes needs concrete technical data though."*⁴⁸

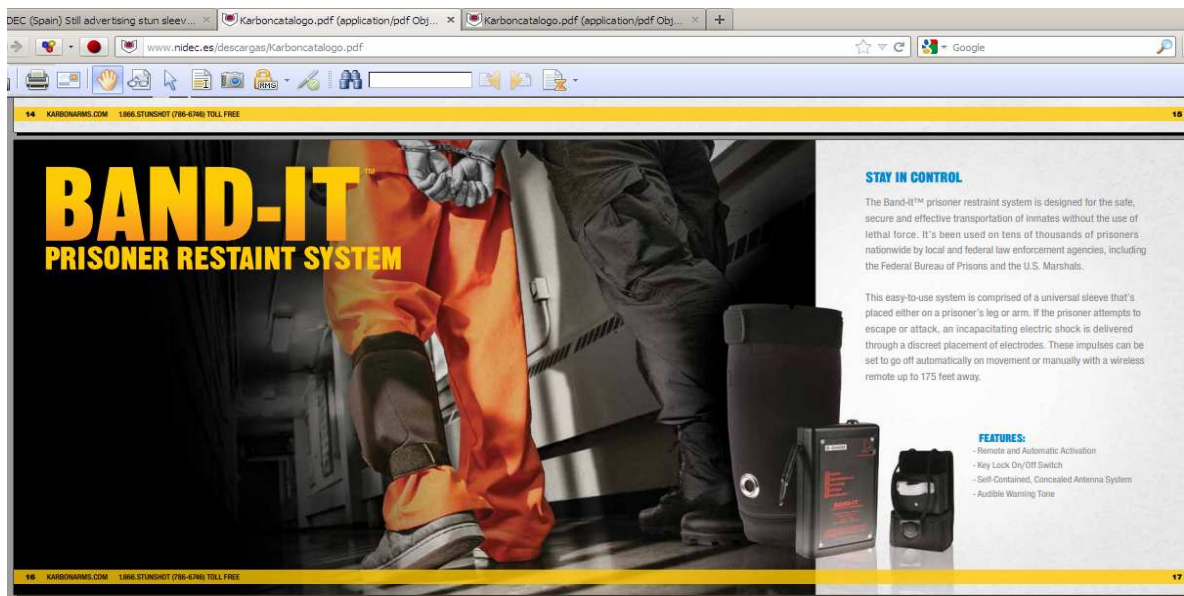
Given concerns about the potential use of such devices for torture and ill-treatment, Amnesty International and Omega recommend that the German Government, as well as ensuring there is no trade in such devices, should confirm the location of any such devices in Germany and verifiably destroy them as soon as possible.

Spain

In 2010 Amnesty International and the Omega Research Foundation published the report "From Words to Deeds: making the EU ban on the trade in 'tools of torture' a reality. This report highlighted the promotion in 2008 by a Spanish company, Nidec Defense Group (Nidec), of electric shock stun cuffs manufactured by a US based company.. Following a telephone interview with Amnesty International in December 2008 all reference to the stun cuffs was removed from the Nidec website.⁴⁹

It subsequently appears that NIDEC has again marketed body-worn electric-shock devices. The company is listed as a distributor for the US based company Karbon Arms.⁵⁰ As previously mentioned Karbon Arms has manufactured the Band-It electric shock system.⁵¹ In June 2012 the Nidec website displayed the full range of Karbon Arms products including the Band-It system which is now prohibited by the Regulation.⁵² Following correspondence sent to the company by Amnesty International and Omega this reference was subsequently removed⁵³.

Given concerns about the potential use of body worn electric-shock devices for torture and ill-treatment, Amnesty International and Omega recommend that the Spanish Government should ensure there is no trade in such devices, and also prohibit all promotion of such devices and confirm that no such devices are held by Spanish companies. If any electric-shock devices are found they should be verifiably destroyed as soon as possible.



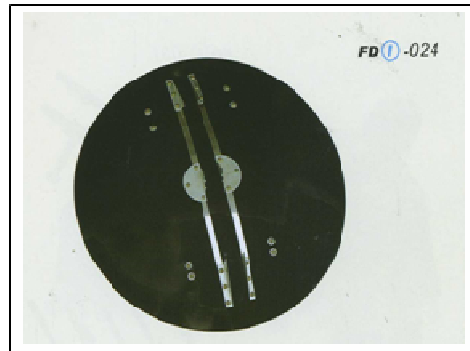
Screenshot of the Band-It system taken from the catalogue advertised through the Nidec website <http://www.nidec.es/descargas/Karboncatalogo.pdf> (20th April 2012)

2.3 SPIKED BATONS AND SPIKED SHIELDS

Specially manufactured spiked batons – sometimes referred to as 'sting sticks'⁵⁴ – are mass-produced and exported by a number of policing equipment manufacturers in East Asia. Such weapons are typically metal batons with pointed ends and metal spikes running down the shaft. In the hands of law enforcement officials, these weapons have no practical use other than to inflict torture or other ill-treatment. They are considered to be “*specially designed implements of torture*” by the United States Bureau of Industry and Security with a presumption of denial on their trade.⁵⁵ Omega and Amnesty International have not identified any EU companies currently producing or trading in this equipment.

However, Omega and Amnesty International have discovered evidence indicating that non-EU companies have promoted spiked batons and shields in Europe. For example, researchers attending the Eurosatory 2010 defence exhibition, held in Paris from 14th to 18th June 2010, discovered marketing material produced by Hainan Xinxing Import and Export Company Ltd/Wuhan Xinxing Import and Export Trading Company Ltd (Factory) which clearly promoted spiked batons (see below left).

In addition, another Chinese company promoting its equipment at Eurosatory 2010, the company Poly Technologies, was found to be advertising a riot shield which appeared to have metal spikes on the shield's face (see below right).



Images of Hainan Xinxing Import and Export Company Ltd/Wuhan Xinxing Import and Export Trading Company Ltd (Factory) spiked baton and Poly Technologies, spiked shield, taken from promotional material distributed by the companies at Eurosatory 2010.

One EU Member State, the UK, has previously taken action to prohibit spiked batons from being exported, traded or brokered by any UK person since April 2008.⁵⁶

Amnesty International and Omega regard the use of spiked batons, spiked shields and other spiked devices as inconsistent with UN standards on the use of force by law enforcement officials that require any use of force by such officials to be proportional and necessary to the achievement of a legitimate objective. The use of such devices would be unsuitable for any legitimate law enforcement function and almost certainly result in unwarranted injuries and ill-treatment.

On 16th November 2011, in their presentation to the Committee on Common Rules for Exports of Products, Amnesty International and Omega called on the Commission and EU Member States to add all such devices to Annex II of the Regulation, and ensure their import and export is prohibited so as to prevent their international trade from contributing to torture and other ill-treatment.

On 20th December 2011, following a formal review of the Regulation, the Commission declared: *“It is necessary to prohibit trade in spiked batons which are not admissible for law enforcement. While the spikes are capable of causing significant pain or suffering, spiked batons do not appear more effective for riot control or self-protection than ordinary batons and the pain or suffering caused by the spikes is therefore cruel and not strictly necessary for the purpose of riot control or self-protection.”*⁵⁷

Consequently, Annex II of the Regulation has been amended to include:

*“Batons or truncheons made of metal or other material having a shaft with metal spikes”.*⁵⁸

Amnesty International and Omega welcome these developments and call on the Commission and EU Member States to ensure that they are fully implemented throughout the European

Union. Furthermore, the two organisations believe that the prohibition should not be restricted to spiked batons but should be extended to include all spiked devices including spiked shields.

In addition the Regulation should be amended to prohibit the promotion and marketing of goods in Annex II. All such goods held by companies should be verifiably destroyed.

2.4 THUMB-CUFFS, FINGER-CUFFS AND THUMB-SCREWS

Thumb-cuffs are restraint devices shaped broadly like handcuffs, but designed for use on detainees' or prisoners' thumbs. Various types of thumb cuffs are currently commercially marketed, including fixed thumb-cuffs, which feature only a bar of metal with holes for thumbs; as well as thumb-cuffs connected by chains. Thumb-cuffs are widely marketed by law enforcement and security equipment distributors in the European Union, (see images below)⁵⁹ as well as by non-EU companies in Europe.

For example, materials promoting thumb-cuffs were distributed by one Chinese company at Eurosatory 2010 (see page 17) and by two Chinese companies at Milipol 2011 (see page 24). In addition, at least two (non-EU) companies manufacture finger-cuffs, which have four restraint holes for fingers, rather than for thumbs.⁶⁰



Images of thumbcuffs: taken from the brochures of Buchner Grosshandel and Haller Stahlwaren.⁶¹

Currently the EC Regulation controls but does not prohibit the import and export of thumb-cuffs.⁶² However, the practical utility of thumb-cuffs for legitimate law enforcement purposes is unproven, while their propensity for use in “stress positions” amounting to torture and

other ill-treatment is evident. Several EU countries have already instituted national export prohibitions on thumb-cuffs, including Hungary⁶³ and the UK.⁶⁴

Thumb-screws are specially designed instruments of torture for compressing the thumb by a screw to inflict unnecessary pain, amounting to ill-treatment.⁶⁵ Their use was reported in 2010 by the UN Special Rapporteur on Torture⁶⁶. As with thumb-cuffs, certain EU States have banned the trade in such devices.⁶⁷

However, Article 1.3 of the Regulation Annex III contains “thumbscrews” among the items that should merely be subjected to trade controls rather than prohibited. Unlike thumb-cuffs, thumbscrews do not appear to be widely traded, and Omega and Amnesty International have not identified any EU companies currently manufacturing or trading them. Nonetheless it remains anomalous that the Regulation only requires trade controls but does not actually prohibit the export of thumbscrews, which are clearly an instrument with no practical use other than for torture or other ill-treatment. In this regard it should be noted that the United States Bureau of Industry and Security classifies thumbscrews, thumb-cuffs and finger-cuffs to be “*specially designed implements of torture*”, with a presumption of denial on their trade.⁶⁸

Amnesty International and Omega recommend that thumb or finger restraints purposely designed to cause discomfort or pain – such as those with serrated edges – be added to the list of prohibited items (Annex II). In addition “thumbscrews” should be reclassified under the Regulation from the list of controlled items (Annex III) to the list of prohibited items (Annex II) to prevent their international trade from contributing to torture and other ill-treatment.

We also recommend that EU Member States ensure that other forms of thumb and finger restraint are not exported to end-users where there are reasonable grounds to assume that such items might be used in torture or other ill-treatment. To ensure that such risk assessments are rigorous, Member States should update and share information on the misuse of restraints for torture and other ill-treatment by prospective end-users.

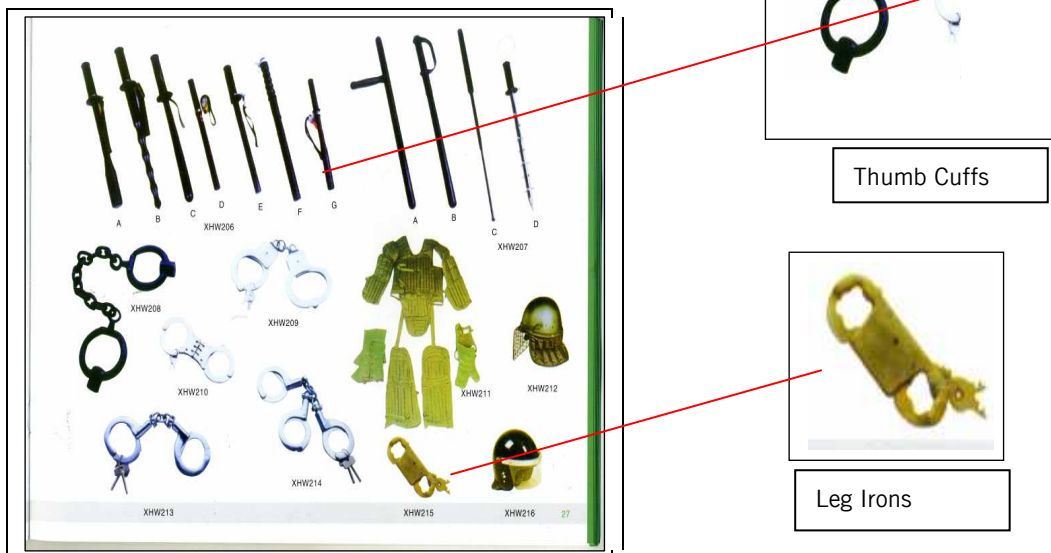
2. 5 LEG IRONS, CHAINS AND SHACKLES

Rule 33 of the UN Standard Minimum Rules for the Treatment of Prisoners states that “[i]nstruments of restraint, such as handcuffs, chains, irons and strait-jackets, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints.”⁶⁹ Article 68.1 of the European Prison Rules reiterates this prohibition.⁷⁰

In the light of these prohibitions and because of concerns about the use of leg irons, leg cuffs and gang chains constituting ill-treatment, some EU countries, including the UK and

Spain, have already banned the export of such items (and also, in the case of the UK, the marketing and brokering of such items).⁷¹ However, despite the UN Standard Minimum Rules' proscription on the use of "irons and chains" as restraints, the EC Regulation does not yet prohibit the import and export of fixed leg irons and bar fetters for security and law enforcement purposes, and leg restraints purposely designed to cause discomfort, such as weighted leg cuffs. Instead the Regulation merely includes leg-irons, gang-chains, shackles and individual cuffs or shackle bracelets in Annex III as controlled but licensable items i.e. that could be traded.

Leg restraints of various kinds are widely marketed by law enforcement and security equipment distributors in the European Union,⁷² as well as by non-EU companies in Europe. For example, the Chinese company, Hainan Xinxing Import and Export Company Ltd/Wuhan Xinxing Import and Export Trading Company Ltd (Factory) distributed materials promoting leg irons (as well as thumb-cuffs) at Eurosatory 2010.



Images taken from Hainan Xinxing Import and Export Company Ltd/Wuhan Xinxing Import and Export Trading Company Ltd (Factory) brochure, distributed at Eurosatory 2010.

Furthermore on 19th October 2011, Amnesty International and Omega obtained evidence of two further Chinese companies Jiangsu Anhua Police Equipment Manufacturing Co and Tianjin Myway International Trading Co. Ltd., distributing promotional material advertising metal leg fetters, at Milipol 2011. (See Section 5 on trade fairs and exhibitions, for more information).

Amnesty International and Omega therefore recommend that fixed leg irons and bar fetters for security and law enforcement purposes – as well as leg restraints purposely designed to cause discomfort, such as weighted leg cuffs - should be reclassified under the Regulation from the list of controlled items (Annex III) to the list of prohibited items (Annex II) to prevent their international trade from contributing to torture and other ill-treatment.

We also recommend that EU Member States ensure that other forms of leg restraint such as chain-linked leg cuffs are not exported to end-users where there are reasonable grounds that such items might be used in torture or other ill-treatment. To ensure that such risk assessments are rigorous, Member States should update and share information on the misuse of such leg cuffs in acts of torture and other ill-treatment by prospective end-users.

2.6 RESTRAINT CHAIRS

Restraint chairs usually consist of a metal framed chair into which prisoners are strapped at the arms and the legs, with a strap across the chest. Since the late 1990s, Amnesty International has consistently highlighted its concerns about such devices, documenting cases in which people have been strapped into the chairs as punishment, or have been left immobilized in them for prolonged periods without adequate safeguards, in violation of international standards.⁷³

In 2000, the United Nations Committee against Torture recommended, that the USA *“Abolish ...restraint chairs as methods of restraining those in custody. Their use almost invariably leads to breaches of article 16 of the Convention”* [the prohibition against cruel, inhuman or degrading treatment].⁷⁴ Despite this recommendation, restraint chairs have continued to be used in the United States. In 2006, Amnesty International reported that *“at least 18 people have died in US detention facilities after being immobilized in four-point restraint chairs, including several people who had also been pepper-sprayed and shocked with stun weapons.”*⁷⁵

In 2009, Amnesty International documented how detainees on hunger strike in Guantanamo Bay *“were alleged to have been subjected to cell extractions, force-feeding and the use of restraint chairs in ways which have amounted to excessive force and violations of the prohibition of torture and other ill-treatment.”*⁷⁶

In 2010, Amnesty International reported how a seriously ill prisoner on death row in Georgia was detained in a restraint chair. Brandon Rhode was scheduled to be executed on 21st September 2010. However on that morning he attempted suicide by making deep cuts in both arms and his neck with a razor blade. He was rushed to hospital where he was assessed as being in immediate danger of losing his life, having lost half his blood. He was revived,

stitched up, and brought back to prison. His lawyer saw him there on the afternoon of 21st September, held in a restraint chair, in which Brandon Rhode was “*in severe pain and discomfort*”, his face “*haggard, pallid and jaundiced*”. He was subsequently executed six days later on 27th September 2010.⁷⁷



Artist's sketch of Brandon Rhode strapped into restraint chair as witnessed by his lawyer on afternoon of Rhode's suicide attempt on 21st September 2010. © Brian Stelfreeze. Amnesty International, USA: Cruel, inhuman, degrading: 40th execution of the year approaches, AMR 51/091/2010, 24th September 2010

Omega and Amnesty International have not identified any EU companies currently producing or trading in restraint chairs. Nonetheless at present the Regulation does not prevent an EU company from doing so.

Omega and Amnesty International have discovered evidence indicating that non-EU companies are promoting restraint chairs in Europe. Researchers attending the Milipol 2011 exhibition, held in Paris from 18th -21st October 2011, discovered marketing material produced by two Chinese companies, Milylink International and Jiangsu Anhua Police Equipment Manufacturing Co. which clearly promoted restraint chairs.



Left: Restraint chair, image from Milylink International brochure. Right: Inquest chair, image from Jiangsu Anhua Police Equipment Manufacturing Company, Co. Ltd brochure. Both companies' marketing materials displayed at Milipol 2011.

Amnesty International and Omega believe that the use of restraint chairs on those persons held in places of custody are easily open to serious abuse and we recommend consideration be given to listing restraint chairs in Annex II of the Regulation, so that their import and export to all countries is prohibited.

2.7 PHARMACEUTICAL CHEMICALS USED IN CAPITAL PUNISHMENT

Lethal injection is the most common method of execution in the US. All but two of the 46 people executed by the US in 2010 were executed using this method.⁷⁸ Lethal injection is also provided for as a method of execution in China⁷⁹, Guatemala⁸⁰, Taiwan⁸¹, Thailand⁸², and Vietnam⁸³.

On 26th October 2010, Jeffery Landrigan was executed by lethal injection for the 1989 murder of Chester Dean Dyer in Phoenix, Arizona, United States. The execution took place despite a US-wide shortage of sodium thiopental, the anaesthetic agent in the three-drug cocktail used in lethal injections in Arizona. The Arizona Attorney-General revealed that the sodium thiopental used to execute Landrigan was imported from the United Kingdom.⁸⁴

On 16th December 2010, in Oklahoma State Penitentiary, John David Duty became the first prisoner to be executed with a mixture of drugs that included pentobarbital.⁸⁵ Subsequently, as US stocks of sodium thiopental declined, a growing number of US States replaced this drug with pentobarbital in their lethal injections. According to statistics produced by the Death Penalty Information Centre there have been 36 executions carried out in 2011 using lethal injections in the USA of which seven involved sodium thiopental and the other 29 involved pentobarbital.⁸⁶

On 29th November 2010, the UK Secretary of State for Business Innovation and Skills made a statement⁸⁷ to the High Court of Justice indicating that the UK Department for Business Innovation and Skills would issue an order under s. 6 of the Export Control Act 2002 (ECA) controlling the export of sodium thiopental to the US. Under this order, any person exporting sodium thiopental from the UK to the US requires an export license issued by the UK Export Control Organisation. Whilst decisions to issue an export license are made on a case-by-case basis, there is an assumption that export licenses for sodium thiopental would be refused by the Export Control Organisation where there is evidence or a risk of the drug being used in lethal injections. Breach of the order will be a criminal offence. Furthermore, in correspondence dated 12th April 2011 with the UK based anti-torture and anti-death penalty organisation, Reprieve, the UK Business Minister announced that the UK Government intended to introduce further controls to regulate the export of pancuronium bromide, potassium chloride and sodium pentobarbital to the United States.⁸⁸

The UK's action – though welcome - did not prevent other European manufacturers from potentially exporting these and other drugs that may be used in lethal injections, directly – or through an intermediary – to the United States or other countries where execution by lethal injection is practised. In 2010 and 2011 a number of European companies including those in Austria⁸⁹, Denmark⁹⁰, Germany⁹¹, Italy⁹² and the UK⁹³ were identified as manufacturing or trading in pharmaceutical drugs that could be employed in lethal injections.

Amnesty International and Omega believe the Regulation provides the most appropriate means for EU-wide control of the export of such chemicals. The Regulation explicitly bans the export of types of equipment that *'have no practical use **other than for the purpose of capital punishment** or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment, irrespective of the origin of such equipment'*.⁹⁴ Annex II of the Regulation provides a distinct list of prohibited items, and includes, *inter alia*, 'goods designed for the execution of human beings', such as gallows, guillotines, electric chairs, gas chambers and the 'automatic drug injection systems for the purpose of execution of human beings by the administration of a lethal chemical substance'.

However, until recently, sodium thiopental and other drugs currently used in lethal injections such as pancuronium bromide and pentobarbital, were neither prohibited items (under Annex II of the Regulation), nor controlled items (under Annex III of the Regulation).

Amnesty International and Omega have raised these issues in correspondence and during meetings with relevant officials in the EU, proposing that the European Commission and Member States extend the scope of the Regulation to include sodium thiopental, pancuronium bromide and pentobarbital, in its Annex III. Furthermore the organisations recommended that the Commission and Member States introduce a "catch-all" safeguard provision (see below) which would address the export of other lethal injection drugs, thereby subjecting these drugs to the export control systems of their respective Member States. Such measures would ensure that any future exports of such drugs would not be used for capital punishment, but only for legitimate medical purposes.

On 6th October 2011, 168 MEPs had signed a Written Declaration on the export of drugs used for the death penalty in third countries which called: *"on the Commission to immediately place on Annex III of Council Regulation (EC) No 1236/2005 drugs, including but not limited to Sodium Thiopental and Pentobarbital, that are sourced in the EU and that can be used in executions in third countries."*⁹⁵

On 20th December 2011, following a formal review of the Regulation, the Commission declared:

"In some recent cases medicinal products exported to third countries have been diverted and used for capital punishment, notably by administering a lethal overdose by means of injection. The Union disapproves of capital punishment in all circumstances and works

towards its universal abolition. The exporters objected to their involuntary association with such use of the products they developed for medical use.”

“It is therefore necessary to supplement the list of goods subject to trade restrictions to prevent the use of certain medicinal products for capital punishment and to ensure that all Union exporters of medicinal products are subject to uniform conditions in this regard. The relevant medicinal products were developed for inter alia anaesthesia and sedation and their export should therefore not be made subject to a complete prohibition.”⁹⁶

Consequently, Annex III of the Regulation has been amended to include a new category of controlled items: **“Products which could be used for the execution of human beings by means of lethal injection, as follows:**

Short and intermediate acting barbiturate anaesthetic agents including, but not limited to:

- (a) amobarbital (CAS RN 57-43-2)
- (b) amobarbital sodium salt (CAS RN 64-43-7)
- (c) pentobarbital (CAS RN 76-74-4)
- (d) pentobarbital sodium salt (CAS 57-33-0)
- (e) secobarbital (CAS RN 76-73-3)
- (f) secobarbital sodium salt (CAS RN 309-43-3)
- (g) thiopental (CAS RN 76-75-5)
- (h) thiopental sodium salt (CAS RN 71-73-8), also known as thiopentone sodium”⁹⁷

A further explanatory note states that

“This item also controls products containing one of the anaesthetic agents listed under short or intermediate acting barbiturate anaesthetic agents.”⁹⁸

Amnesty International and Omega welcome these developments and call on the Commission and EU Member States to ensure that they are fully implemented throughout the European Union. However these additions to Annex III of the Regulation have not included other chemicals such as propofol and pancuronium bromide, both of which are utilised in lethal injections. Amnesty International and Omega consequently recommend that such chemicals be added to Annex III so that their trade and transfer are controlled by EU Member States without delay. Furthermore, given the danger that States employing lethal injection for capital punishment may in future utilise other pharmaceutical chemicals not currently listed in Annex III, we strongly recommend that the Commission and EU Member States introduce a “torture and death penalty end use catch all” safety clause.

Although the Commission’s amendment was introduced solely to halt the transfer of “barbiturate anaesthetic agents” intended for lethal injection in capital punishment, these and other pharmaceutical drugs could also be utilised in other cruel, inhuman and degrading treatment or punishment, including in the forced interrogation of prisoners. The transfer of anaesthetic or other pharmaceutical drugs intended for such practices would be contrary to

the purpose of the EC Regulation.

Consequently, Amnesty International and Omega recommend that the Commission and EU Member States introduce the following amendment to the description of the drugs listed in Annex III: “Products which could be used for the execution of human beings by means of lethal injection, or which could be employed in torture or cruel, inhuman or degrading treatment or punishment.”

3. INTRODUCTION OF A “TORTURE AND DEATH PENALTY END USE CATCH ALL” SAFETY CLAUSE

Like many trade control systems, the Regulation is list-based and contains categories of specifically named items whose international trade by EU Member States is either prohibited or subjected to trade controls. List-based systems provide clarity for exporters and importers, but they can also have unintended, inherent weaknesses, including:

Not controlling a range of products even though they fall within the intended scope of the agreement, because they are not specifically named on the control lists.

The delay experienced from the time manufacturers and other suppliers, market and transfer newly designed equipment, and evidence emerges of the ways such equipment is contributing to serious violations of international standards, to the time taken for authorities to add such equipment to a control list.

The potential for suppliers to evade controls simply by re-naming or re-specifying their products.

These weaknesses appear to be exemplified in the Regulation’s failure to adequately control export of pharmaceutical drugs utilised in capital punishment. Had a “catch all” safety clause been in existence, immediate steps could have been taken by Member States to control the transfer of these drugs to a particular unscrupulous end user so as to ensure that they were not used for imposing the death penalty.

Amnesty International and Omega are concerned that the control regime will always be reacting belatedly to new technological and market developments so that in practice regulation is carried out in “slow motion”.

This problem has been recognised in some respects, for instance by the United States Bureau of Industry and Security (BIS). In its 2010 review of Crime Control License Requirements, the BIS revised its category "ECCN 0A983" to read: *Specially designed implements of torture, **including** thumbscrews, thumbcuffs, handcuffs, spiked batons, and parts and accessories, n.e.s.*⁹⁹

In its commentary on the Revisions, the BIS explained that the addition of the word "including" was intended "to make clear that the items listed are examples of specially designed implements of torture rather than an exclusive list of such implements."¹⁰⁰

Amnesty International and Omega urge the European Commission and Member States to add a "torture and death penalty end-use catch-all" clause to the Regulation. This would allow Governments to prohibit the trade of any items not listed in the Annexes that clearly have no practical use other than for the purposes of capital punishment, torture and other ill-treatment, or where there are reasonable grounds to believe that such items would be used for the purposes of capital punishment, torture and other ill-treatment.

4. CONTROLS ON BROKERING ACTIVITIES

The EC Regulation does not at present control brokering activities by companies or individuals within the EU concerning the transfer of items between third countries outside the EU, where the items will not enter the EU customs territory. Such brokering activities could involve either the trade of items listed in Annex II (prohibited goods) or other items where their transfer is known to be intended for capital punishment, torture and other ill-treatment in third countries.

Amnesty International and Omega are concerned that without a requirement in the Regulation for Member States to control the brokering of items covered by the Regulation, and given the existing lack of brokering trade controls in some EU Member States, the European Union's efforts to ban the international trade in "torture equipment" beyond Europe, and to control the EU trade in other security and law-enforcement equipment to prevent that trade from contributing to torture and other ill-treatment, will be undermined. Whilst action at the EU level has not been forthcoming, some Member States have implemented national controls over the marketing and brokering of items covered by the Regulation.

United Kingdom

The United Kingdom classifies all electric-shock devices as 'Category A' goods and thus assigns the highest levels of controls, i.e. a de facto ban, on all activities connected with the trade in such equipment. The Review of Export Control Legislation (2007) Supplementary Guidance Note on Trade ("Trafficking and Brokering") in Controlled Goods states that;

"...For category A goods a trade licence is required for any of the following activities, where undertaken by any company or person from within the UK (whether or not they are a UK person) or by any UK person operating overseas... and whether directly or indirectly: Supplying or delivering, agreeing to supply or deliver, or doing any act calculated to promote the supply or delivery of Category A goods where that person knows or has reason to believe that their action or actions will, or may, result in the removal of those goods from one third country to another.

Unlike trading in category C and B goods, there are no exemptions for those whose sole involvement is in transportation services, financing or financial services, insurance or reinsurance services or general advertising and promotion (such as displaying category A goods at trade fairs or advertising them in periodicals). Therefore, anyone involved in the provision of these services requires a licence.

These strict controls reflect the fact that the supply of many of these goods is inherently undesirable. Licences will not normally be granted for any trade in paramilitary goods listed because of evidence of their use in torture..."¹⁰¹

Amnesty International and Omega commend the UK for the introduction of this proactive legislation. Because this legislation prohibits a broad range of activities associated with the provision of Category A Goods, concerns about UK companies potentially advertising and promoting electric-shock equipment can be investigated.

Omega has found that a UK based company AFS Security Systems (AFS) has promoted a range of security products and services. The company website stated that; *"AFS Security are pleased to announce that we have further expanded our operations in West Africa in co-operation with Koasen Nigeria Ltd, to supply Specialist Security Equipment and Services, especially for the Police, Military, and Traffic sectors of the Nigerian market..."¹⁰²*

The AFS website provided details of the range of products marketed by Koasen Nigeria Ltd including Karbon Arms electric-shock devices (see below)¹⁰³



AFS Security Systems, <http://www.afs-securitysystems.com/Karbon-Arms.php> (Last accessed 17th October 2011). This has subsequently been removed.

In March 2010 the following information was given on the “Latest News” section of the AFS website: “AFS Security in association with our partner company Koasen Nigeria Ltd are pleased to announce an agreement is in place to supply Stinger Systems range of products in Nigeria, including **S-200AT Stun Gun, Ice Shield - Electronic Immobilisation Riot Shield, and Band-It - Prisoner Transport and Courtroom Control System,**¹⁰⁴ more details can be found on www.koasen.com.”¹⁰⁵ [Emphasis added]

Amnesty International and Omega have sought further information about this case from AFS Security and the UK Government. Whilst no response has yet been received from the company, a representative of Her Majesty’s Revenue and Customs (HMRC) has acknowledged our correspondence and stated that the issue is being examined by HMRC.¹⁰⁶

Amnesty International and Omega recommend that the EC Regulation should be amended so that all EU Member States are required to control the brokering activities by companies and individuals within the EU who act to bring buyers and sellers together and arrange transactions for the transfer of items listed in the Regulation, particularly between third countries. Thus, EU Member States should:

Prohibit brokering activities by any natural or legal person within the EU involving international transactions for the transfer from any place, including sales and exports, of items with no practical use other than for capital punishment, torture or other ill-treatment, as included in Annex II of the Regulation;

Introduce effective mechanisms to control brokering activities by any natural or legal person within the EU involving international transactions for the transfer from any place, including sales and exports, of items listed in Annex III.

Such controls should include instances where: (i) the brokering activity is conducted outside the EU by registered companies, nationals and permanent residents of EU Member States, and (ii) where the items are being brokered by a legal or natural person within the EU, but the items do not physically enter the EU.

5. PROMOTION OF REGULATION EQUIPMENT AT EU TRADE FAIRS AND EXHIBITIONS

The following three cases illustrate where equipment currently banned under the Regulation, or equipment which has no purpose other than for torture or other ill treatment, was promoted at European international trade events by both EU and non-EU companies. Omega and Amnesty International are concerned that such promotional activities undermine the spirit of the Regulation and can facilitate the import, export or brokering of equipment prohibited under the Regulation.

Eurosatory 2010

The Swiss company SECFOR attended the Eurosatory 2010 exhibition¹⁰⁷ in Paris held on 14th-18th June 2010. The literature on the SECFOR stand advertised a number of electroshock devices including an, "anti scape stun belt". The belt is visually similar to the "anti' scape stun belt" produced by the Force Group company in South Africa which delivers a 50,000 volt shock.¹⁰⁸ A representative from the Swiss Federal Department of Economic Affairs, State Secretariat for Economic Affairs (SECO) has confirmed that the Swiss authorities are looking into the case, as well as the 'respective legal basis.'¹⁰⁹ A representative of SECFOR has stated that: "*to date, we have not bought and/or sold any of the electroshock equipment to which you refer...a former employee of ours, was the sole liaison with that particular business/company and [he] no longer has ties to Secfor.*" The company representative further stated that: "*Secfor has ceased its relationship with the manufacturer and stopped the promotion of these products immediately. Accordingly, we have removed any and all reference to these products from our website.*"¹¹⁰

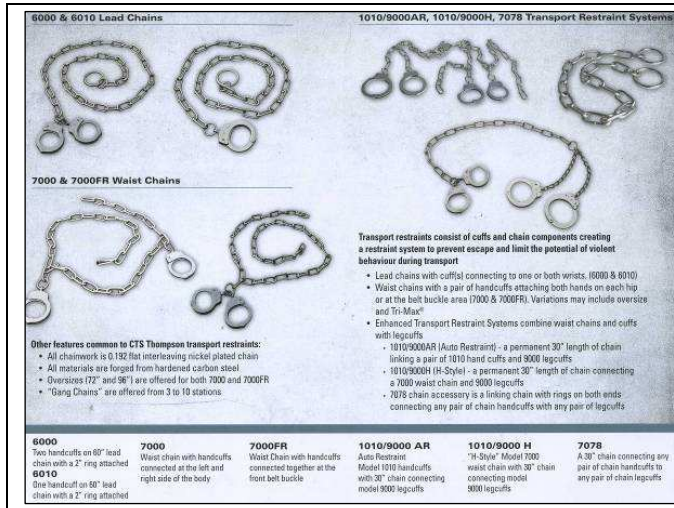


Images of an electroshock rifle baton, shock riot shields and anti scape stun belt taken from SECFOR promotional material distributed at Eurosatory 2010

DSEi 2011

The Defence and Security Equipment International exhibition was held in London from the 13 – 16th September 2011.¹¹¹ Amnesty International and Omega uncovered evidence that a UK based firm, Beechwood Equipment Ltd,¹¹² was marketing equipment prohibited under UK export control legislation. The equipment included: gang chains, leg cuffs and systems such as the, *“Enhanced Transport Restraint Systems”* that *“combine waist chains and cuffs with leg-cuffs.”*

When Amnesty International raised this case with the event organiser, they closed the stall and expelled the company. Although Amnesty International and Omega welcome the speedy action taken by the event organiser to terminate the company’s activities, we are concerned about the effectiveness of the compliance checks carried out by the DSEi organiser to ensure that no company promotes or trades any equipment prohibited by the Regulation or by UK law.



Images of a variety of leg restraints taken from promotional material distributed by Beechwood Equipment Ltd at DSEI 2011.

Milipol Paris 2011

The Milipol 2011 worldwide exhibition of internal State security was held from 18th – 21st October 2011 in Paris.¹¹³ Amnesty International and Omega uncovered evidence that two companies based in China, Milylink International Co.Ltd and Jianguo Anhua Police Equipment Manufacturing Co., were distributing marketing literature that promotes restraint chairs, spiked batons and thumb-cuffs. In addition, material distributed by three Chinese companies, Jianguo Anhua Police Equipment Manufacturing Co, China XingXing, and Tianjin Myway International Trading Co. Ltd., was also found to be advertising metal 'leg fetters'.

In response to correspondence from Amnesty International and Omega, Jianguo Anhua Police Equipment Manufacturing Co. confirmed that the company manufactures a wide range of security equipment including handcuffs and batons and has *"business in Europe[an] countries, such [as] France, UK, Spain, Finland, Greek, Italy, Albania etc."* However the company representative did not provide information on the specific equipment transferred or the end users of such equipment.¹¹⁴ A representative from Mily Link International, in correspondence to Amnesty International, stated that his company *"had never sold spiked batons, thumb-cuffs and restraint chairs to any European countries. And we will not sell these productions to any parties, as these are old styles and not available any more."*¹¹⁵

Amnesty International and Omega wrote to the French Government raising concerns and requesting further information regarding the promotion and possible trading of the equipment identified above.



Images of 'leg fetters': taken from promotional material distributed by (left) Tianjin MyWay and (centre) China XingXing at Milipol 2011. 'Leg fetters' (right) displayed on Jiangsu Anhua Police Equipment Manufacturing Co stall at Milipol 2011.

A representative from the Omega Research Foundation met with French Customs officials in June 2012 to discuss the implementation of the Regulation and the promotion of the equipment identified above. The French Customs officials stated that the Regulation does not control the promotion of equipment, and that any changes to prohibit promotion of Annex II goods would have to be agreed by an inter-ministerial decision.¹¹⁶

Although the Regulation specifically prohibits the import and export of equipment listed in Annex II and it requires Member States to control transfers of other equipment listed in Annex III, there are currently no restrictions on the commercial marketing of such items which could be used for torture or other ill-treatment. Member States should extend the Regulation's coverage to prohibit the commercial marketing and promotion at least of all Annex II items and also require companies and individuals to obtain prior authorisation to market any equipment listed under Annex III.

Amnesty international and Omega recommend that Member States should ensure that all companies promoting security equipment are made aware of the Regulation and their obligations under this legislation. Member States should ensure that all military, security or police trade fairs and marketing events conducted in their country do not promote the import, export or brokering of items prohibited under the Regulation. Organisers of such events should be strongly encouraged to undertake a thorough screening of all potential exhibitors to assess the likelihood that they will trade in or promote equipment prohibited by the Regulation so where the potential exhibitor poses a substantial risk of engaging in such activities the exhibitor should be denied permission to participate.

6.REPORTING ON LICENSING ACTIVITY

Article 13 (3) of the Regulation requires that, “Member States, if possible in cooperation with the Commission, shall make a public, annual activity report, providing information on the number of applications received, on the goods and countries concerned by these applications and on the decisions they have taken on these decisions...” However, in our previous report, “From Words to Deeds” Amnesty International and Omega found that only seven States - Bulgaria, Czech Republic, Germany, Lithuania, Slovenia, Spain and the United Kingdom - had produced one or more publicly available annual activity reports since 2006.

A recent review of Member State transparency and reporting measures by Amnesty International and Omega indicates that only three new EU Member States – Hungary, Ireland and Sweden - have made their licensing information publicly available. In addition, a fourth State – Estonia - provides some information on related control activity. Below are details of the Annual Reports publicly available.

Member State	No of Publicly Available Reports since 2006	Latest Reporting Period Covered	Location of Annual Reports
Bulgaria	3	2010-2011	http://www.exportcontrol.bg/docs/Godishen doklad Regulation 1236 2010.pdf
Czech Republic	1	2008-2009	http://www.mpo.cz/dokument54368.html The Czech Republic has yet to update the relevant webpage with the data for the 2010 reporting year. The previous annual reporting statistics do not appear to be archived online.
Estonia	4	2008-2009	The annual activity report compiled by the Strategic Goods Commission and published on the website of the Ministry of Foreign Affairs lists the number of prosecutions brought in the reporting year for potential breaches of import and export control legislation. The 2009 report references the “..illegal importing or exporting of electroshock goods.” The annual activity reports can be found here: http://www.vm.ee/?q=en/node/5039
Germany	4	2010-2011	http://www.bafa.de/ausfuhrkontrolle/de/arbeitshilfen/sonstiges/vierter taechtigkeitsbericht.pdf
Hungary	2	2009-2010	http://mkeh.gov.hu/haditechnika/haditechnika-kulkereskedelem/6a Jelentes
Ireland	1	2008-2010	Ireland does not appear to publish an annual report specifically for equipment controlled under the Regulation. On Wednesday 21 st September 2011 Ireland published the First Report under the Control of Exports Act 2008. ¹¹⁷ The Report makes specific reference to equipment controlled under the Regulation. The report covers the period 2008-2010 and states that, “ <i>The Department has never received an import/export application under the Torture Regulation</i> ” ¹¹⁸
Lithuania	NA	NA	In advance of the 2010 Words to Deeds Report The Ministry of Interior, Republic of Lithuania provided Amnesty International and Omega with information on the Regulation published in the Official Gazette (Lithuania) No 32 91) 2008 as well as the licensing data provided to the Commission. We have yet to receive any subsequent data regarding licensing activity for Regulation controlled goods.
Slovenia	3	2010-2011	www.mg.gov.si/fileadmin/mg.gov.si/pageuploads
Spain	4	2010-2011	http://www.mityc.es/en-US/IndicadoresyEstadisticas/Paginas/Estadisticas.aspx
Sweden	6	2010-2011	http://www.kommers.se/Startsida-verksamhetsomraden/Handelsamnen/Importlicenser/Begransning-av-handel-med-varor-for-tortyr-mm/
United Kingdom	4	2010-2011	https://www.exportcontroldb.berr.gov.uk/eng/fox/sdb/SDBHOME

The following 16 States do not appear to have produced any public annual activity reports at the time of writing: Austria, Belgium, Cyprus, Denmark, Finland, France, Greece, Italy, Latvia, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania and the Slovak Republic.

Amnesty International and Omega have written to all 16 States requesting information regarding their annual reporting procedures and asking for details of any reports they may have produced. To date, we have received responses from five Member States. Poland¹¹⁹, Cyprus¹²⁰ and Latvia¹²¹ informed Amnesty International and Omega that they have, to date, granted no licences for equipment covered by the Regulation and consequently have not produced an Annual Report. Italy informed Amnesty International and Omega that it does not publish an annual report on licensing activity or produce licensing statistics but data concerning activity is made available for relevant Italian departments, the European Commission and international export control regimes.¹²² France has informed Omega that it has not produced any activity reports as there has been no licensing activity.¹²³ The French Government finally published an official decree in 2011 which completed the implementation of the Regulation in France. The Decree specifies that the competent authority in France with responsibility for the Regulation is the Minister for Customs; it details powers for repealing, suspending or quashing licences and for passing information to other member states on licence refusals.

The lack of public reporting contrary to the purpose of the Regulation is of great concern to Amnesty International and Omega as it limits parliamentary and public oversight of the implementation of the Regulation and it may be indicative of a lack of effective regulation by the Government in question to prevent the trade in equipment that could be used in torture and other ill-treatment. Concern is increased in those countries where full public reporting has been delayed or has not occurred at all, but where there is evidence of companies which are found to be marketing equipment that falls under or should fall under the Regulation.

Case Study: Delayed reporting and the marketing of controlled equipment in Ireland

Although the Regulation came into force in 2006, the Irish Government did not release any public annual reports, as required under Article 13 of the Regulation, until September 2011. On the 21st September it published its first report on the operation of the Control of Exports Act 2008¹²⁴. This report covers the period 2008 to 2010 and makes specific reference to the Regulation. The report states that no applications for either the import or export of Regulation controlled equipment have ever been received by the Department of Jobs, Enterprise and Innovation. Amnesty International and Omega welcome this report but have sought further information about the activities of two companies, based in the Republic of Ireland, that have offered equipment for sale that is controlled by the Regulation.

Torch Security, based in County Kildare, has promoted riot-control vehicles and hand held electroshock stun devices including the 'Taser S26. The company website stated that the TS26 advanced Taser gun was for "EXPORT ONLY".¹²⁵ A second Irish company, KFT Solar & Security Equipment, has marketed a range of armoured vehicles, and policing equipment including stun batons and projectile fired electroshock weapons.¹²⁶

The electroshock devices promoted by these companies are Annex III items and a licence would therefore be required for their export or import.¹²⁷ Amnesty International and Omega have requested that the Irish Government to investigate the activities of Torch Security and KFT Solar to establish whether any transfers of Regulation controlled equipment have taken place. Amnesty International and Omega have written to both companies seeking further information about their activities in this area. In response a representative of KFT Solar has stated that *"the company has neither traded nor sold/transferred (or facilitated the transfer of) any form of electroshock equipment into or out of Ireland. In addition, please note that it has neither brokered (nor otherwise facilitated) the transfer of any form of electroshock equipment to third parties within or outside of Ireland."* The representative further stated that *"Stun guns which could be classified as electroshock equipment are not on our active product listing."*¹²⁸

<p>TS26 Advanced Taser Gun (EXPORT ONLY)</p>  <p>The ADVANCED TASER TS26 uses a replaceable TASER cartridge containing compressed nitrogen to deploy two small probes that are attached to the ADVANCED TASER TS26 by insulated conductive wires with a maximum length of 35 feet (10.6 meters).</p> <p>The ADVANCED TASER TS26 transmits electrical pulses along the wires and into the body affecting the sensory and motor functions of the peripheral nervous system. The energy can penetrate up to two cumulative inches of clothing, or one inch per probe.</p> <p>Accessories for the TS26 include:</p> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;">  <p>Cartridge</p> </div> <div style="text-align: center;">  <p>Holster</p> </div> <div style="text-align: center;">  <p>Battery System</p> </div> </div>	<p>Stun Gun</p> <p>Stun Gun Multi-Function, anti-Violence electrode shock gun:</p> <p>Flexible of using different cartridges according to your purpose. Non-lethal weapon, can be used legally depending on the law and regulations of each country.</p>  <p>X-1(D) has 30KV DC current output, much safe to human body;</p> <p>X-1(A) has 50KV DC current output, more powerful for incapacitating (especially to the target who is dressing a thick clothes); optional depend on the consideration of different areas and situations.</p> <p>Construct of robust carbon composite material to withstand 1.5m drop. Design for easy operation and carry.</p>
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A selection of electroshock devices marketed by Torch Security. Special Reference is made to the 'Taser' device which was only available for export.

We urge all Member States that have not done so to compile public annual activity reports in accordance with their Article 13(3) obligations. They should send a copy of their reports to the European Commission and make them publicly available. These reports should at a minimum include: the number of applications received, the items involved and countries of destination for each application, as well as the decisions made on each of these applications.

We recommend that all Member States' annual activity reports, compiled in accordance with their Article 13(3) obligations, should be updated and form part of a formal Regulation review process undertaken by the Committee on Common Rules for Exports of Products, as empowered by Article 15 and 16 of the Regulation.

To facilitate the compilation and completion of annual activity reports by all Member States and to ensure their consistency, we recommend that the European Commission develops a model framework report.

The Commission should also consider publishing all annual reports on a dedicated website so that parliaments and the public can exercise a reasonable degree of oversight.

END NOTES

1 European Commission, Commission Implementing Regulation (EU) No: 1352/2011 of 20 December 2011, amending Council Regulation (EC) No 1236/2005 concerning the trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, Official Journal of the European Union, 21st December 2011, L.338/31.

2 See Article 5 of the Universal Declaration of Human Rights, adopted and proclaimed by General Assembly resolution 217 A (III), 10th December 1948. This prohibition has been articulated in a number of international human rights and regional instruments, most notably the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted by General Assembly resolution 39/46 of 10th December 1984, entered in to force 26th June 1987).

3 Hereafter, the phrase “torture and other ill- treatment” is used to denote torture and other cruel, inhuman and degrading treatment and punishment.

4 Council Regulation (EC) No 1236/2005 of 27th June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, published in Official Journal of the European Union, L200/1, 30th July 2005 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:200:0001:0019:EN:PDF>).

5 Amnesty International and the Omega Research Foundation, ‘From Words to Deeds: Making the EU ban on the trade in ‘tools of torture’ a reality’, AI index: EUR 01/004/2010, 17th March 2010.

6 On 29th June 2010, Amnesty International and Omega representatives presented the organisations’ concerns to the Committee on Common Rules for Exports of Products, the body responsible for reviewing implementation of the Regulation. The organisations have also written repeatedly to Commission officials seeking further information regarding the Commission’s response to our specific concerns and the Commission’s proposals for strengthening the Regulation and facilitating effective implementation by Member States.

7 PE441.942 European Parliament resolution of 17 June 2010 on implementation of Council Regulation (EC) No 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, 17th June 2010, P7_TA-PROV(2010)0236

8 United Nations, General Assembly, 66th Session, Third Committee, Torture and other cruel, inhuman or degrading treatment or punishment, A/C.3/66/L.28 Rev 1, 8th November 2011, paragraph 24

9 Regarding the export from EU countries of pharmaceutical chemicals utilised in capital punishment, Amnesty International and Omega also drew on research by other non-governmental organizations including Harm Reduction International, Penal Reform International and Reprieve.

¹⁰See for example details of the "Prisoner Transport Belt – RACC Belt," manufactured by Nova Technologies in the USA.

http://novausa.com/index.php?page=shop.product_details&flypage=shop.flypage&product_id=17&category_id=1&manufacturer_id=0&option=com_virtuemart&Itemid=34&vmchk=1&Itemid=34 (Accessed 23/10/2011)

Another example is the Secpro XR 5001 Prisoners stun belt, which its distributor claims is "used by many institutions in the USA and world wide" and has been "tested by and [is] in use with South African Authorities", www.securityprousa.com/prstbeshbeco.html (Accessed 17th October 2011)

¹¹Amnesty International, Stopping the Torture Trade (Index: 40/02/2001)

¹²Amnesty International, The Pain Merchants: Security Equipment and its use in torture and ill-treatment (Index: ACT 40/008/2003)

¹³As cited and discussed in Amnesty International (1999) United States of America: Cruelty in Control? The stun belt and other electro-shock treatment AI Index: AMR 51/54/99k, p.40.

¹⁴Council of Europe (2010) Press release: Council of Europe anti-torture committee calls for strict regulation of electrical discharge weapons <http://www.cpt.coe.int/en/annual/press/2010-10-26-eng.htm> (Accessed 16th October 2011).

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http://www.forcegroup.co.za/uploads/docs/law_enforcement__antiscapstunbelt.pdf (Accessed 17th October 2011). It should be noted that although the current Force Group webpage does not detail the voltage delivered by the belt, previous Force Group marketing materials for this product clearly state that it delivers 50,000 volts. See for example: http://www.forcegroup.co.za/scape_stunbelt.htm (Accessed 28th March 2007 – copy on file with Omega Research Foundation)

¹⁷ Beka International,

http://www.bekaint.de/Uber_uns/Produkte/Schutztausrustungen/schutztausrustungen.html (Last accessed 26th June 2012)

¹⁸ Force Group, Force Products

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¹⁹ Beka International, http://www.bekaint.de/Uber_uns/Produkte/Schutztausrustungen/schutztausrustungen.html

²⁰ Filcotech APS, Innovative Security, http://www.filcotech.dk/stun_access.xls

²¹ Email correspondence from the CEO of Filcotech, 7th January 2012 (copy on file with the authors)

²² Correspondence with Head of Section, Danish Enterprise and Construction Authority, 16th January 2012 (copy on file with the authors)

²³ Correspondence with the Head of Section, Danish Business Authority, 10 May 2012 (copy on file with the authors)

²⁴ Email correspondence from a representative of Beka International, 7th January 2012 (copy on file)

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25 Email correspondence from a representative of , German Federal Office of Economics and Export Control (BAFA), 13th January 2012, (copy on file with the authors)

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"In the CPT's view, electric stun batons and body belts constitute a potentially dangerous and inhumane means of treating detained persons (in addition to the possibility of them being misused). The Committee would like to receive detailed information on the Hungarian authorities' plans to introduce electric stun batons and body belts in prisons and police establishments and, in particular, on the training provided to staff, the concrete circumstances in which the use of this equipment is envisaged, and any instructions which have been issued in this respect."

28 "The use of electric batons was introduced in September, 2003.....Since its introduction, it has not been used at all; the prison staffs have always been able to stop disorders by applying alternative measures." Council of Europe Committee for the Prevention of Torture, Response of the Hungarian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Hungary from 30 March to 8 April 2005 (CPT/Inf (2006) 21).

29 See Amnesty International and Omega, *From Words to Deeds*, (2010) Op.cit, p.16

30 European Parliament resolution of 17 June 2010 on implementation of Council Regulation (EC) No 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, 17th June 2010, P7_TA-PROV(2010)0236, paragraph 12.

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32 Letter from the Hungarian Trade Licensing Office to ORF, 22nd December 2011 (copy on file with the authors).

33 Letter from the Hungarian Trade Licensing Office to ORF, 23rd January 2012 (copy on file with the authors)

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35 European Commission, Commission Implementing Regulation (EU) No: 1352/2011 of 20 December 2011, amending Council Regulation (EC) No 1236/2005 concerning the trade in certain goods which

could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, Official Journal of the European Union, 21st December 2011, L.338/31, paragraph 4

36 European Commission (21st December 2011), L338/32, Annex II, 2.1

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43 PKI Electronic Intelligence GmbH, http://www.pki-electronic.com/catalogue/downloads_en/PKI_Anti_Terror_Equipment_2010.pdf (Last accessed 26th June 2012) P.155

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- 55 United States, Bureau of Industry and Security, Department of Commerce, Revisions to the Commerce Control List to update and clarify Crime Control License Requirements, Federal Register, Vol. 75, No.135, 15th July 2010, http://www.bis.doc.gov/news/2010/fr_07152010.pdf (Accessed 20th October 2011), p. 41082
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- 62 EC Regulation 1236/2005, Annex III; cf. European Parliament, Resolution on the Council's Second Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports (13177/1/2000 - C5-0111/2001 - 2001/2050(COS)), 3 October 2001
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Mission to the Republic of Equatorial Guinea, 7th January 2010, A/HRC/13/39/Add.4, p.13 and p.25

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68 United States, Bureau of Industry and Security, Department of Commerce, Revisions to the Commerce Control List to update and clarify Crime Control License Requirements, Federal Register, Vol. 75, No.135, 15th July 2010, http://www.bis.doc.gov/news/2010/fr_07152010.pdf (Accessed 20th October 2011), p. 41082

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70 Recommendation of the Committee of Ministers to Member States on the European Prison Rules, adopted by Committee of Ministers on 11th January 2006 at 952nd meeting of the Ministers' Deputies

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125 Torch Security, <http://www.torch.ie/products.htm> (Last accessed 17th October 2011). This has subsequently been removed.

126 <http://www.kftsecurity.com/Security-Equipment.html> (Last accessed 7th July 2011). The KFT Solar and Security website is no longer accessible

127 In addition, Stun-guns are classified as a 'firearm' in Ireland and possession of such a device requires a licence <http://www.irishstatutebook.ie/1925/en/act/pub/0017/index.html>
, <http://www.irishstatutebook.ie/1990/en/act/pub/0012/print.html#sec3>

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