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# **DRAFT REPORT**

on arms export: implementation of Common Position 2008/944/CFSP  
(2015/2114(INI))

Committee on Foreign Affairs

Rapporteur: Bodil Valero

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on arms export: implementation of Common Position 2008/944/CFSP (2015/2114(INI))

*The European Parliament,*

- having regard to Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment ('the Common Position')<sup>1</sup>,
- having regard to the review of the Common Position conducted by the EU Council Working Party on Conventional Arms Exports (COARM),
- having regard to the Council's Sixteenth Annual Report according to Article 8(2) of the Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment<sup>2</sup>,
- having regard to Council Decision 2012/711/CFSP of 19 November 2012 on support for EU activities in order to promote the control of arms exports and the principles and criteria of Common Position 2008/944/CFSP among third countries,
- having regard to the EU strategy against the proliferation of weapons of mass destruction of 9 December 2003,
- having regard to the European Security Strategy 'A Secure Europe in a Better World', adopted by the European Council on 12 December 2003,
- having regard to the Arms Trade Treaty (ATT) adopted by the UN General Assembly on 2 April 2013<sup>3</sup>,
- having regard to its resolution of 5 February 2014 on the ratification of the Arms Trade Treaty<sup>4</sup>,
- having regard to its resolution of 21 May 2015 on the impact of developments in European defence markets on the security and defence capabilities in Europe, in particular paragraphs 4, 10, 18, 19, 20, and 21<sup>5</sup>,
- having regard to the Council Decision 2013/768/CFSP of 18 December 2013 on EU activities in support of the implementation of the Arms Trade Treaty in the framework of the European Security Strategy<sup>6</sup>,
- having regard to Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use

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<sup>1</sup> OJ L 335, 13.12.2008, p. 99.

<sup>2</sup> OJ C 103, 27.03.2015, p. 1.

<sup>3</sup> The Arms Trade Treaty, UN, 13-27217.

<sup>4</sup> Texts adopted, P7\_TA(2014)0081.

<sup>5</sup> Texts adopted, P8\_TA(2015)0215.

<sup>6</sup> OJ L 341, 18.12.2013, p. 56.

items<sup>1</sup>, as amended by Regulation (EU) No 599/2014 and to the list of dual-use goods and technology in its Annex I,

- having regard to the Commission Communication of 24 April 2014 to the Council and to Parliament on the Review of the export control policy: ensuring security and competitiveness in a changing world, (COM(2014)0244)),
- having regard to the Joint Statement of 12 June 2014 by Parliament, the Council and the Commission on the review of the dual-use export control system,
- having regard to the Council conclusions on the review of the export control policy of 21 November 2014,
- having regard to Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community<sup>2</sup>,
- having regard to the EU strategy to combat illicit accumulation and trafficking of small arms and light weapons and their ammunition, adopted on 15-16 December 2005 by the European Council, and to the Council Joint Action 2002/589/CFSP of 12 July 2002 on the European Union's contribution to combating the destabilising accumulation and spread of small arms and light weapons and repealing Joint Action 1999/34/CFSP,
- having regard to Council Common Position 2003/468/CFSP of 23 June 2003 on the control of arms brokering<sup>3</sup>,
- having regard to the updated Common Military List of the European Union adopted by the Council on 9 February 2015,
- having regard to the User's Guide to Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment,
- having regard to the Wassenaar Arrangement of 12 May 1996 on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, together with the lists, updated in 2015, of these goods and technologies and munitions<sup>4</sup>,
- having regard to Council Regulation (EC) 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,
- having regard to the Commission Communication of 28 April 2015 to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Region, on the European Agenda on Security, (COM(2015)0185)),

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<sup>1</sup> OJ L 134, 29.5.2009, p. 1.

<sup>2</sup> OJ L 146, 10.6.2009, p. 1.

<sup>3</sup> OJ L 156, 25.6.2003, p. 79.

<sup>4</sup> <http://www.wassenaar.org/controllists/>, 'list of dual-use goods and technologies and munitions list', the Wassenaar Arrangement on export controls for conventional arms and dual-use goods and technologies, 25 March 2015

- having regard to the European Consensus on Development, adopted on 24 February 2006,
  - having regard to the Commission Communication of 13 October 2011 from the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled ‘Increasing the impact of the EU Development Policy: an Agenda for Change’,
  - having regard to Article 42 of the Treaty on European Union (TEU) and to Article 346 of the Treaty on the Functioning of the European Union (TFEU),
  - having regard to the UN Arms Trade Treaty which entered into force on 24 December 2014,
  - having regard to the United Nations’ Human Rights Council resolution 24/35 of 8 October 2013 on the Impact of arms transfer on human rights in armed conflicts<sup>1</sup>,
  - having regard to Rules 52 and 132(2) of its Rules of Procedure,
  - having regard to the report of the Committee on Foreign Affairs (A8-0000/2015),
- A. whereas the global security environment around the EU has dramatically changed, especially in the southern and eastern neighbourhood;
- B. whereas the uncontrolled spread of weapons constitutes a serious risk for peace and security, human rights and sustainable development;
- C. whereas over the period 2010-2014, EU Member States were responsible for 25.4 per cent of the deliveries<sup>2</sup> of major conventional weapons worldwide, making the EU28 the third largest arms supplier during that period, after the USA with 31.1 per cent and Russia with 26.5 per cent;
- D. whereas, EU Member States exported arms with a total value of EUR 9.6 billion<sup>3</sup> in 2013 and EUR 10.7 billion in 2012<sup>4</sup> to countries in the Middle East and North Africa (MENA); whereas EU Member States accounted for 36 per cent of overall exports to third countries;

### ***Global security environment and arms exports***

1. Is deeply concerned by the spread of violent conflicts in its neighbourhood, notably in Ukraine, Syria, Iraq and Libya;
2. Finds regrettable, notwithstanding the numerous arms export control regimes, that developments in the last two years have shown that weapons often end up in the hands of repressive regimes, armed groups and violent non-state actors, terrorists and criminals, and are used to fuel insecurity and armed conflicts internally and externally,

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<sup>1</sup> A/HRC/RES/24/35

<sup>2</sup> Trends in international arms transfers, 2014, SIPRI Fact Sheet, March 2015

<sup>3</sup> 16th Annual Arms Exports Report

<sup>4</sup> 15th Annual Arms Exports Report

or to support internal repression, regional conflicts and grave violations of human rights and fundamental freedoms;

3. Deplores that around half a million<sup>1</sup> people die every year as a result of armed violence, both in armed conflicts and in connection with criminal activity;
4. Notes that EU Member States are major global arms exporters, accounting for EUR 36.7 billion in exports in 2013, of which EUR 26.7 billion is to non-EU countries; considers that the defence industry should aim to primarily ensure defence and security of EU Member States; is seriously concerned by the consequences for the security and defence of the EU caused by the transfer of sensitive knowledge and technology to third countries;
5. Points out that, while denials and suspensions of licences following embargos or conflicts and revolutions such as the Arab Spring are a positive sign, they indicate that the EU export policy is merely reactive in character; considers that a more thorough assessment of the specific risks associated with recipient countries would be necessary before licensing;
6. Notes that the risks deriving from diversions, smuggling and the stockpiling of arms are increasing; stresses the risks that arms exported to third countries might be re-introduced into Europe with unprecedented ease and speed owing to increased arms smuggling and enhanced mobility, thus compromising the security of citizens as was highlighted in a recent EUROPOL report<sup>2</sup>; welcomes the review of the EU legislation on firearms and the intention to strengthen police cooperation with neighbouring countries on arms smuggling;
7. Stresses that arms export controls are an integral part of EU foreign and security policy and shall be guided by the principles enshrined in Article 21 of TEU, notably the promotion of democracy and the rule of law and preservation of peace, prevention of conflicts and the strengthening of international security; recalls that arms exports might affect the credibility of the EU as a global human rights advocate; calls for the new EU global strategy on foreign and security policy to properly consider arms export issues in view of the changed security environment and associated risks and threats;
8. Deplores that irresponsible arms transfers continue to hinder democratic, economic and social development in many parts of the world; recognises that the effective implementation of Criterion Eight would be a decisive contribution to the EU's Policy Coherence on Development objectives;

### *The Arms Trade Treaty*

9. Welcomes the entry into force of the ATT; welcomes the outreach activities undertaken by the EU to promote universal ratification and implementation of the Treaty;
10. Welcomes the requirement that states parties to the ATT take into account in the licence

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<sup>1</sup> Global Burden of Armed Violence 2015: Every Body Counts, a report by the Geneva Declaration on Armed Violence and Development

<sup>2</sup> Exploring Tomorrow's Organised Crime, 2015, Europol

decision-making process the risk that the weapons to be transferred may be used to commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children; calls on the Member States to introduce this condition into the Common Position;

### *The Common Position*

11. Recalls that the Common Position does not affect the right of Member States to operate more restrictive national policies and that the common standards set by the Common Position are to be regarded as the minimum standard for the management of transfers of military technology according to recital 3; points out that harmonisation at the European level should only lead to a more restrictive arms export policy at national level and not be used as a pretext for watering down stricter national rules;
12. Notes COARM's review of Common Position 2008/944 and the conclusion that it properly serves the objectives set by the Council, and that it is in line with the ATT; expresses concern that Member States thought that no change was necessary despite weaknesses in arms exports policies exposed by the Arab Spring;
13. Takes note of the update of the User's Guide to the Council Common Position and of the EU Military List; looks forward to the adoption of a new online information-sharing mechanism by COARM; welcomes the new references made to aspects of the ATT which are not yet included in the Common Position and the changes to the elaborative guidance to Criterion Seven; is disappointed that changes to the guidance on implementing the other criteria have been limited, in particular with regard to Criterion Eight despite widespread difficulties in its effective implementation;
14. Calls on the Member States to ensure a stricter application of the eight criteria; believes that Member States including at European level in COARM should broaden their assessments to include a focus on the situation in the country of destination as well as on the specific military technology in question; encourages Member States to apply stricter national criteria;
15. Stresses the need to ensure a more coherent policy on embargos; calls on Member States to eliminate any ambiguities in their systems but also at the level of the Wassenaar Arrangement concerning the export of 'military' and 'non-military' arms, which could lead to small arms transfers being able to circumvent regulation systems through being described as 'non-military';
16. Suggests exploring the possibility of applying and extending the eight criteria, also to the transfer of military and security personnel, to arms-export-related services and to private military services;
17. Is concerned by the possible diversions of exports and by the lack of effective controls on end users, and calls on Member States to establish an effective control system (common monitoring system, non-misuse clause in end-user certificates, mandatory physical inspections of end users); calls on the Council to better align Criterion Seven to Article 11 of the ATT;
18. Is deeply concerned by the possible circumvention of EU export controls through

licensed production in countries outside the EU or through overseas subsidiaries of EU-based companies; urges COARM to consider this issue in depth in its next annual report;

19. Calls for increased coordination at working level within the Council and the EEAS in order to ensure that aspects related to conflict prevention, development and human rights are duly taken into account;

### ***Transparency***

20. Finds regrettable the very late adoption of the Sixteenth Annual Report making it the most delayed ever;
21. Finds regrettable that only 21 Member States made full submissions to the 16th Annual Report; deplores that Greece has not provided any data and that Germany and the UK did not submit any data on actual arms exports and that France provided a total figure for arms exports which was not disaggregated;
22. Notes that the report includes standardised information on issued export licences but does not include comprehensive information on the real export of arms;
23. Calls for the introduction of a standardised reporting and submission procedure, including a deadline, for information on actual exports and licence data to be applied uniformly in all Member States; calls on the Member States to report more comprehensively on licences denied, including licence-specific information regarding recipient state and specific authority, description and quantity of items to be transferred with regard to the subcategories of the Military List, and the reason for the denial;
24. Calls for enhanced consultations between the Member States with regard to transfers to fragile and unstable regions or countries; calls on the Member States to establish and publish a list of persons (including entities and individuals) that have been convicted of violating arms-export-related legislation and of cases of identified diversion; calls on the Member States to provide detailed information on procedures for the revocation or suspension of granted licences with regard to countries subject to an embargo;

### ***Public scrutiny***

25. Recalls that governments bear the political responsibility of whether or not to export military or dual-use goods;
26. Strongly believes that the citizens have the right to be informed about the arms export decisions of their governments as they affect the security and well-being of their nation;
27. Calls for parliamentary oversight to be strengthened both at national and European level through annual reports in Parliament; calls for European arms exports to be discussed at the next Inter-Parliamentary Conference on CFSP/CSDP;
28. Stresses also the essential role of civil society in increasing transparency; calls on the Commission and the EEAS/COARM to continue to deepen its dialogue with civil society and relevant think tanks;



*New technologies and the issue of dual-use goods*

29. Considers that technological developments make it increasingly more difficult to distinguish between pure military and pure civilian use; calls on the VP/HR, the Member States and the Commission to ensure that there are no loopholes at the level of the Wassenaar Arrangement and between the Military List and the Annexes of the Dual-Use Regulation and to pay particular attention to new technology of strategic importance such as Remotely Piloted Aircraft Systems and surveillance technology;
30. Welcomes the ongoing work of the Commission and its intention to present a new legislative proposal on dual-use exports in the first half of 2016; recalls the urgent need to address potentially harmful exports of ICT products and services to third countries;
31. Instructs its President to forward this resolution to the Council, the Commission, the VP/HR, the governments and parliaments of the Member States.