

## EU rules on control of arms exports

The EU's Common Position on arms exports is the only legally binding region-wide arrangement on conventional arms exports. While the Common Position has increased information-sharing and transparency of Member States' arms exports, scope remains to enhance convergence of national policies and for stricter implementation of the criteria defined in the EU text. Parliament is due to discuss a report on implementation of the Common Position during its September plenary session.

### EU Member States' arms exports in 2015

According to the EU's [18th Annual Report on arms exports](#), the value of licences for arms exports from Member States in 2015 totalled €195.9 billion, double the amount of €98.4 billion licensed in [2014](#) (in [2011](#) – €37.5 billion; in [2012](#) – €39.8 billion; in [2013](#) – €36.7 billion). Exports to other Member States made up about 15 % of all EU arms exports. Saudi Arabia, Egypt and Qatar were the main destinations of EU arms-export licences in 2015, with total licences worth €22.2 billion, €19.5 billion and €16.6 billion, respectively. (NB: Normally, the value of export licences exceeds the value of actual exports, sometimes by a very significant amount. For example, in 2015 the licensed value submitted by France was 25 times the value of actual exports. However, while all EU Member States report on licensed value, not all report on the value of actual exports, making comparison of actual export figures difficult.) The combined [exports](#) of major conventional weapons by EU Member States accounted for 26 % of the global total in 2012-2016, making the EU Member States collectively the second largest exporter of major conventional weapons in the world, after the USA (33 %), but ahead of Russia (23 %). Global transfers of major conventional weapons reached their highest volume for any five-year period since the end of the Cold War, in 2012-2016.

### The Common Position: overview

In 2008, the Council adopted [Common Position 2008/944/CFSP](#) (CP) which lays down [common rules](#) governing the control of exports of military technology and equipment, replacing an earlier political agreement, the [EU Code of Conduct on arms exports](#) (1998). At international level, all EU Member States have signed and [ratified](#) the [Arms Trade Treaty](#) (ATT), in force since 24 December 2014. The **aim of the CP** is to enhance the [convergence](#) of EU Member States' arms-export-control policies, since arms exports remain ultimately a matter of national competence in accordance with Article 346 of the Treaty on the Functioning of the EU. In this respect, the CP incorporates eight common criteria (minimum standards) to be taken into account by Member States when assessing export licence applications for military technology and equipment, but also for brokering, transit transactions and intangible transfers of technology. Moreover, the CP defines the scope of the items controlled – in a common EU Military List covering 22 categories of arms, munitions, military equipment and technologies. The EU List is aligned with the [Wassenaar Arrangement](#) (a voluntary [export controls](#) regime for conventional arms and dual-use items), and is regularly [updated](#), most recently on 8 March 2017. The CP is implemented according to the [User's Guide](#) developed within the Council's Working Party on Conventional Arms Exports (COARM).

*The common criteria defining rules on arms exports control*

The **eight common criteria** for assessing arms-export licences cover: (1) respect for EU Member States' international obligations and commitments, particularly sanctions (including arms embargos) and international agreements; (2) respect for human rights and international humanitarian law by the recipient country; (3) the internal situation in the recipient country; (4) risks to regional peace, security and stability; (5) national security of Member States as well of their friends and allies; (6) behaviour of the buyer country towards the international community, including its attitude to terrorism and respect for international law; (7) risk of diversion towards an unauthorised end-user or end-use; and (8) compatibility of the arms exports with sustainable development in the recipient country. The assessments are made on a case-by-case basis.



*Exchange of information and transparency*

The Common Position establishes mechanisms for the **exchange of information** on arms-export licences and on actual exports (including their financial value). It also institutes the obligation to notify licence denials and bilateral consultations when a Member State intends to grant approval for an export licence 'essentially identical' to one already denied by another Member State. In 2011, COARM also created an information exchange system between the EU and third countries which aligned themselves with the CP. EU Member States are required by the CP to publish national **reports** on their arms exports. Moreover, they are required to provide information for the [EU's annual reports on arms exports](#) (published since 1999). These contain data provided by Member States on the financial value of their arms-export licence approvals and actual arms exports, broken down by destination and the categories of the EU Military List, as well as information on licence denials and the criteria invoked for the denials. The [18th Annual Report on arms exports](#), published in May 2017, includes data on arms exports for the 2015 calendar year. Only 23 Member States publish a national report, and most Member States submit only partial information for the EU report.

**Assessment of the implementation of CP 2008/944/CFSP**

The CP is considered to have had a [positive impact](#) on EU national arms-export policies, through better exchange of information and increased transparency. At the same time, implementation is still the responsibility of the Member States and there is still room for further convergence of national policies, as regards both the implementation and interpretation of the criteria. [Recommendations](#) for enhancing compliance with the CP include (i) a peer review process to compare the different systems and methodologies for implementation adopted by the Member States; (ii) more sharing of information on recipient countries in COARM; (iii) greater information-sharing among Member States on cases of diversion, companies involved in criminal activities, and suspended and revoked licences; (iv) the quarterly exchange of information on licences issued per type and quantity of equipment and technology, as well as information on end-use and end-users for destinations that had recently been subject to an EU embargo; (v) discussions and consultations at Council level in the event of a major policy change by one or several Member States; and (vi) strengthening the language of the CP on human rights evaluations.

Concerns have grown over the past few years over arms exports by EU Member States to countries in the Middle East which are engaged in armed conflict or use imported weapons for internal repression, which constitutes a violation of the criteria laid down in the CP. The Middle East was by far the most important region in terms of arms exports for the EU Member States in 2015, with the value of arms export licences for the region reaching €78.8 billion, up from €31.5 billion in [2014](#), and €7.6 billion in [2013](#).

**The review of the Common Position**

A review of the CP was initially scheduled to take place three years after its adoption. However, in its November 2012 [conclusions](#), the Council concluded that the CP was still suited for its stated objectives. At the same time, the Council resolved to provide additional guidance regarding the application of the export criteria, to refine the information-exchange mechanism, to improve denial notification and consultation mechanisms and to ensure compatibility between the ATT and the CP. On 20 July 2015, the Council adopted new [conclusions](#) on the CP's review, emphasising the development of an IT platform for information-sharing on licence denials and the adoption of an updated [User's Guide](#) to incorporate ATT-related guidelines. The next review is scheduled to take place in 2018.

The **European Parliament** (EP) adopted resolutions on the Common Position in [2008](#), [2013](#), and [2015](#), in which the EP called for strict application of the common criteria and improved transparency. A motion for a new EP resolution on [Arms export: implementation of Common Position 2008/944/CFSP](#) was approved by the Foreign Affairs Committee on 11 July 2017 by 36 votes to 14, with 14 abstentions. The EP plenary is due to vote on the resolution on 13 September. The motion calls for the setting up of an **arms control supervisory body**; the creation of a **mechanism which sanctions** Member States that do not comply with the CP; an expansion of the list of criteria to include the **risk of corruption**; increasing the **transparency of arms export reporting**; and creating effective **post-shipment controls**. The motion notes that arms exports to Saudi Arabia breach the Common Position and repeats Parliament's call for an EU arms embargo on Saudi Arabia, first made on [25 February 2016](#).

Own-initiative report: [2017/2029\(INI\)](#); Committee responsible: AFET; Rapporteur: Bodil Valero (Greens/EFA, Sweden).

This 'at a glance' note updates an EP Library [briefing](#) from 2013 and an 'at a glance' note of December 2015.