Arms export: implementation of Common Position 2008/944/CFSP

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The European Parliament adopted by 249 votes to 164, with 128 abstentions, a resolution on arms export: implementation of Common Position 2008/944/CFSP.

To recall, the Common Position 2008/944/CFSP is a legally binding framework laying down eight criteria for the export of conventional arms to be applied by EU Member States to their licensing decisions.

Global security environment and arms exports: deeply concerned at the spread of armed conflicts, notably those in Ukraine, Syria, Iraq, Libya and Yemen, Parliament found it regrettable that developments in the last two years have shown that weapons sometimes end up in the hands of terrorists or repressive regimes or of countries where children might be recruited or used in hostilities. It deplored the fact that around half a million people die every year as a result of armed violence and believed it is **necessary to adopt effective arms export control regimes**.

Members recalled that EU Member States are **major global arms exporters**, accounting in 2013 for EUR 36 711 billion in exports worldwide, of which EUR 10 735 takes place between Member States and EUR 25 976 billion to third countries. They regretted, however, that **Article 10 of the Common Position is often overlooked.** According to this Article, considerations of economic, commercial and industrial interests by Member States shall not affect the application of the eight criteria regulating arms exports.

Parliament recalled that the **defence industry should serve as an instrument for implementing the defence and security of the Member States** ensuring a security of supply regime in the EU, while also contributing towards the implementation of a strengthened Common Foreign and Security Policy and Common Security and Defence Policy. It recognised that arms exports have been instrumental in terms of **strengthening and further developing the industrial and technological base of European defence**, which has been important in a wide range of innovation and technological development. It also acknowledged the legitimacy of exports that are carried out in response to a request made to the EU in accordance with the right to self-defence. Members stressed the risks that **arms from third countries** which have high levels of corruption might be introduced into Europe owing to increased arms smuggling and trafficking. They stressed that arms export controls are an integral part of EU foreign and security policy and must be guided by the **principles enshrined in Article 21 TEU**, notably the promotion of democracy and the rule of law and the preservation of peace, prevention of conflicts and strengthening of international security.

The Arms Trade Treaty (ATT): Parliament welcomed the entry into force of the ATT which, while representing a positive achievement, still has limitations and ambiguities (unclear concepts, exception to reporting obligations, lack of sanctioning regime). It urged those Member States that have not yet ratified the ATT to do so at the earliest opportunity.

According to Members, the Treaty will be genuinely successful only if steps are taken to make it universally applicable and if binding or punitive mechanisms are established, to be used in case of failure to apply the rules/

The Common Position: Parliament recalled that the Common Position should lead to a **coordinated approach to the arms trade** that does not affect the right of Member States to operate more restrictive national policies. It pointed out that harmonisation at European level should not be used as a pretext for

watering down stricter national rules. Member States are urged to **cancel already agreed contracts** where as a result of a sharply changed situation the deal breaches the Common Position.

Furthermore, Members took the view that the real problem is that the Common Position is being applied loosely and interpreted inconsistently by the Member States, and therefore they considered it crucial that a **consistent and ambitious application of the eight criteria be pursued.** The resolution also:

- considered it advisable to make arrangements for conducting independent checks and for **penalties** in case of infringement of the Common Position;
- encouraged a **stricter application of national criteria** by broadening assessments to include a focus on the situation in the country of destination as well as on the specific military technology in question;
- called for clarification of **Criterion Two** which requires Member States to deny an export licence only if there is a 'clear risk' that the military technology or equipment to be exported might be used for internal repression.

Members States were asked to:

- treat the **concept of risk** in arms transfer licensing processes on a precautionary basis, as is standard when addressing other areas such as terrorism, money laundering and environmental concerns;
- include a mechanism in the Common Position that would automatically freeze existing export licences for arms to countries against which a European weapons **embargo** has been established after the export control license was granted;
- include arms **transporting and arms financing services** into their arms brokering legislation;
- establish an **effective control system** regarding possible diversions of exports.

Parliament called 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: regretting the late adoption of the Sixteenth Annual Report, making it the most delayed ever, Parliament urged the Council and the VP/HR to **look at ways of improving compliance with the reporting obligation** and increasing the transparency and public scrutiny of the export control framework, in particular ensuring that Member States report all arms exports.

Members called for the:

- the introduction of a **standardised reporting** and submission procedure, including a deadline, for information on actual exports and licence data, to be applied and complied with uniformly in all Member States;
- **enhanced consultations** between Member States with regard to transfers to fragile and unstable regions or countries, in particular those that are acting aggressively in their neighbourhood;
- deep and systematic verification of implementation of the EU sanctions regime against Russia in arms exports and sales of dual-use technologies;
- establishment of a **list of persons** (including entities and individuals) that have been convicted of violating arms export-related legislation and of cases of identified diversion;
- **monitoring of and cooperation on illegal arms trafficking**, through cooperation procedures involving police forces and border authorities based on the exchange of information and databases;
- **parliamentary oversight to be strengthened** at both national and European level by means of annual reports to parliaments.

New technologies and the issue of dual-use goods: given that technological developments make it increasingly difficult to distinguish between pure military and pure civilian use, Members called for

special attention to be paid to the Dual Use List in the light of the Wassenaar Arrangement. Particular attention should be given to new technologies of strategic importance, such as **Remotely Piloted Aircraft Systems**, applied robotics and surveillance technology.

Member States were asked to make sufficient resources available to effectively implement and enforce dual-use export, brokering and transit controls.