

## Twenty-Second Annual Report according to Article 8(2) of Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment

On 23 October 2020, the Council published the Twenty-Second Annual Report according to Article 8(2) of Common Position 2008/944/CFSP<sup>1</sup>.

With reference to the implementation of the said Common Position in the calendar year 2019, the report provides:

- data on **granted and denied licences and exports** of conventional arms from EU Member States;
- **activities** undertaken by the EU and its Member States.

The data provided by the Report refer to the 2019 **updated EU Common Military List**<sup>2</sup>. This list is identical to the list of defence-related products annexed to Directive 2009/43/EC<sup>3</sup>. With regard to the latter, the report provides non-exhaustive information on intra-EU transfers of defence-related products.

As reviewed in 2019, the **third countries that have officially aligned** themselves with the criteria and principles of Common Position 2008/944/CFSP are Albania, Bosnia and Herzegovina, Canada, North Macedonia, Georgia, Iceland, Montenegro and Norway.

With regard to **EU outreach efforts** in selected third countries, they have continued to be performed under Council Decision (CFSP) 2015/2309<sup>4</sup>, Council Decision (CFSP) 2018/101<sup>5</sup> and Council Decision (CFSP) 2017/915<sup>6</sup>.

### Review of Common Position 2008/944/CFSP

On 16 September 2019, the Common Position 2008/944/CFSP was amended by the **Council Decision (CFSP) 2019/1560**<sup>7</sup>, which have also welcomed the revised **User's Guide**. The former reflects the new obligations and commitments resulting from the several developments at both EU and international level, with special regard to the enforcement of the ATT in 2014.

The Council Conclusions provide for setting and implementation of **high common standards** for the management of transfers of military technology and equipment by all Member States

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<sup>1</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32008E0944>

<sup>2</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2019:095:FULL&from=SL>

<sup>3</sup> 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 (OJ L 146, 10.6.2009).

<sup>4</sup> Council Decision (CFSP) 2015/2309 of 10 December 2015 on the promotion of effective arms export controls (OJ L326, 11.12.2015, p.56).

<sup>5</sup> Council Decision (CFSP) 2018/101 of 22 January 2018 on the promotion of effective arms export controls (OJ L17, 23.1.2018, p.40).

<sup>6</sup> Council Decision (CFSP) 2017/915 of 29 May 2017 on Union outreach activities in support of the implementation of the Arms Trade Treaty (OJ L139, 30.5.2017, p.38).

<sup>7</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019D1560&from=EN>

in order to commit to a stronger **control** of export of military technology and equipment, a reinforced **cooperation** and the promotion of **convergence** in exports in the framework of CFSP

The amendments include, inter alia :

- **assessment criteria** for export licence applications;
- an **extension of controls** on brokering, transit transactions and intangible transfers of technology;
- strengthened procedures to **promote the convergence** of Member States' export policies through the information exchange on denied exports, as well as guidance with regard to end-user documentation, transparency and reporting.

With regard to **denial notifications and consultations**, the Common Position provides for a consultation process via the COARM Online System in case of license denials notification (i.e. when a Member State is considering a license application that have been denied before by another Member State). In this respect, the report provides data on:

- the number of **denials** in 2019 **per destination and per military list category**;
- the number of **consultations issued and received** by each Member State;
- the number of **consultations per destination**.

### User's Guide

With regard to the **User's Guide**<sup>8</sup>, in line with Article 13 of the Common Position, it was developed by the COARM Working Party and is updated periodically. The last update was done as part of the review of the Common Position, in 2018 and the first half of 2019. The Guide ultimately aims at achieving a **greater consistency** among Member States in the application of the criteria of the Common Position.

### Outreach

In line with Article 11 of the Common Position, both the EU and by Member States individually continued to carry out intensive **outreach activities** in 2019. The Report provides precise information on them in **Table D**. In particular, those activities were carried out under Council Decision (CFSP) 2018/101 (implemented by the German Federal Office for Economic Affairs and Export Control (BAFA)) and under Decision (CFSP) 2017/915 (supporting the ATT's effective implementation).

**Political Dialogue meetings** on arms export control issues were held in 2019 with Norway, Canada and the United States. The discussions focused on matters of mutual interest, such as export policies to specific destinations, compliance and control issues and the ATT process.

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<sup>8</sup> <https://www.consilium.europa.eu/media/40659/st12189-en19.pdf>

### Arms brokering

With regard to brokering licences (as foreseen by Article 5 of Council Common Position 2003/468/CFSP<sup>9</sup>), the Report provides information on the **licences granted and denied** by the EU Member States (**Table A.III**). Further detailed information on national implementation of the said Common Position is provided (**Table C**).

### Arms Trade Treaty

The EU and its Member States actively participated to the ATT Fifth Conference of State Parties, held in 2019. The Conference set **goals for the next year**, with a focus on implementation of action-oriented decisions on :

- gender and gender-based violence (GBV);
- the risks of diversion;
- a new work-stream on transit and transshipment;
- the need to increase the number and timeliness of national reports;
- measures to tackle the serious financial situation.

In order to contribute to an effective and universalized implementation of the ATT, the EU adopted an implementation support programme for third countries through the **Council Decision (CFSP) 2017/915**. This programme is implemented by both the BAFA and Expertise France.

### Priority Guidelines for COARM for the near future

As regards the priority guidelines for COARM for the near future, they will be guided by the following Council Conclusions:

1. **strengthening the control** on the export of military technology and equipment through the Council Decision (CFSP) 2019/1560, to **reinforce cooperation** and **promote convergence** in the field of export of military technology and equipment, within the framework of CFSP, through the setting, upholding and implementation of **high common standards** for the management of transfers of military technology and equipment by all Member States.
2. promoting **cooperation and convergence in Member States' policies** to prevent the export of military technology and equipment which might be used for **internal repression** or **international aggression** or contribute to **regional instability**.
3. committing to the **promotion** of the universalisation and effective implementation of the **ATT**.

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<sup>9</sup> Council Common Position 2003/468/CFSP of 23 June 2003 on the control of arm brokering (OJ L156, 25.6.2003, p.79)

4. **thoroughly assessing export licence applications** for military technology and equipment against the criteria provided by the Common Position as amended.
5. Consistently interpret and apply those criteria to **support the convergence of national arms export policies**.
6. Reaffirming the committing to **transparency** in the international arms trade, with a number of concrete measures (including clear reporting deadlines for the EU Annual Report and further guidelines in the amended Common Position and User's Guide on the substance and process of reporting).
7. The Council welcomes the development of a **searchable online database** on the website of the EEAS for the consultation and analysis of data on Member States' arms exports in a user-friendly manner.
8. the Council welcomes the **expansion of the COARM Online System** to allow a broader range of **information-sharing and exchange** between Member States.
9. The Council tasks the COARM to:
  - a) continue **discussing measures to support Member States** to collect and report the relevant information on their actual exports, with a view to working towards **comprehensive reporting** and increased **transparency**;
  - b) explore possibilities to **further improve the working methods** of the COARM;
  - c) further investigate the possible benefits of a **database for licensing officers** that would facilitate the finding of relevant information.
10. The Council will consider **technological advances** in the field of military technology and equipment, recognising the importance of all relevant items being covered under the common rules governing the export control of military items.
11. the strengthening of a European defence technological and industrial base should be accompanied by **closer cooperation and convergence in the field of export control** of military technology and equipment.
12. The Union ensures the **consistency of its external activities as a whole** in the context of its external relations; in this respect the Council notes the importance of a **consistent export control policy regarding defence-related materials and dual-use goods**.
13. the Council tasks the COARM to consider a decision on **end-user certificates for the export of small arms and light weapons and their ammunition**.
14. The Council tasks the COARM to **reassess the implementation of Common Position 2008/944/CFSP** as amended by Council Decision (CFSP) 2019/1560 in **five years' time**.