On 15 January 2021, the Council adopted the Decision (CFSP) 2021/38 establishing a common approach on the elements of end-user certificates in the context of the export of small arms and light weapons (SALW) and their ammunition.

In accordance with :

* United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in SALW in All Its Aspects (**UNPoA**, 20 July 2001);
* Arms Trade Treaty (**ATT**, adopted by the UN General Assembly on 2 April 2013);
* **Sustainable Development Goal 16.4** of the UN 2030 Agenda for Sustainable Development (2015);

this decision follows the Council conclusions on an **EU position for the Third Review Conference to review the implementation of the UNPoA**. Adopted on 28 May 2018, these conclusions call for the promotion of the application of end-user certificates in the context of the control of SALW exports.

Successively, in the **EU Strategy against illicit firearms, SALW and their ammunition** (19 November 2018), the Council commits to considering a decision on end-user certificates for SALW exports, taking account of the work of the Organization for Security and Cooperation in Europe in this regard, and it confirms this commitment in its **conclusions of 16 September 2019 relating to the review of Council Common Position 2008/944/CFSP**.

Some of the major highlights of the agreed common elements for end-user certificates can be found here below.

The Council Decision (CFSP) 2021/38 makes the **authorization** by a Member State (MS) of the **export of SALW and their components, accessories and ammunition**, as set out in the Annex, **subject to the requirement of** a "thoroughly checked **end-user certificate** or appropriate documentation, **signed by the end-user prior to that authorisation**" (art. 4 of the Decision).

Article 5 of the Decision establishes the **essential elements regarding identification to be included in the end-user certificate** (such as details of the exporter, of the end-user, country of final destination, and description of the goods), and the **essential commitments that MS shall require by the end-user** (e.g. that the goods will not be used for purposes other than the declared use).

Other optional elements that the MS might require to be included in the end-user certificate are listed in article 6.

A requirement of **record keeping of the issued end-user certificates** is laid down by article 7 in accordance with national law and practice.

While in case of identified fraud with, falsification of, or violation of an end-user certificate, the Decision envisage an **information sharing with the other MS via the COARM online system.**

This Decision, by establishing a common Union-wide approach to end-user control for SALW and their ammunition, could contribute to:

* A **reduced risk of diversion**;
* The creation of a **level playing field**;
* A **better understanding of the relevant requirements** for the defence industry and its clients.

However, as stressed in the Council, “**such certificates are not a substitute for a pre-ante full assessment of risk**, **made on a case-by-case basis** when deciding whether or not to grant an export licence”.

For further information, please consult the following link:

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021D0038&from=EN>