

EU Common Position review: Transparency and reporting

This briefing offers recommendations on the principles of transparency and reporting as a contribution to the current review of European Union (EU) [Common Position 2008/944/CFSP](#) as amended by Council Decision (CFSP) 2019/1560.

The previous review of the Common Position introduced a national deadline for reporting on the previous calendar year to the European External Action Service by 30 June, and a searchable online database with information on export licences, both of which were longstanding recommendations of civil society. There are, however, further important steps member states should take to deliver a properly transparent system of reporting on arms exports, including in light of new EU mechanisms such as the European Peace Facility (EPF).

To this effect Saferworld recommends:

- an obligation in the Common Position on all member states to report the value of all actual delivered exports to each destination, broken down by Military List (ML) category
- the introduction of a distinct and consistent reporting process for all arms deliveries made under the EPF
- publication of additional information under the denial notification and consultation mechanism
- publication of information regarding the Working Party on Conventional Arms Exports' (COARM) deliberations

A longstanding weakness of EU-level reporting is the variability of national reporting. Not all

members report on *deliveries*.¹ All members do report on *licences* granted, but apply widely variable licensing practices, meaning reports are not directly comparable. France, which issues licences at a far earlier, more 'speculative' stage than others, is the most obvious outlier.² Nor is it clear if there are arms exports that avoid the licensing process altogether, such as disposals of military surplus, or government-to-government sales or gifts. Reporting on *all* actual *deliveries* would build a more complete and comparable picture of the EU and arms exports.

Common Position Article 8(1) currently requires only 'information ... on [each member state's] exports of military technology and equipment', without elaborating at all on what that information should comprise. The User's Guide to Council Common Position does state that 'each member state shall provide the ... value of actual exports to each destination', but with the caveat 'if available', and in any event the User's Guide is not legally binding.³ Saferworld recommends amending the Common Position to require **all member states to report values of all delivered exports to each destination, broken down by ML category**, without exception, rather than just licences granted.

Member states must also address how to report on transfers arranged and/or delivered under the EPF, especially given the way it is now being used – as a means to supply large amounts of 'offensive' military equipment (described as 'lethal equipment') for use in conflict – which is very different to how the EPF was presented leading up to and at its adoption. It is therefore important that **member states establish distinct and consistent reporting for all arms deliveries made under the EPF**, providing information on all actual transfers of military equipment, including

¹ In 2021 and 2020, Belgium, Cyprus, Germany, Greece and Latvia did not report on the actual value of arms exports. Additionally, some of the countries that do report on the actual values of arms exports do not provide information for every ML category for some destination countries.

² In 2021, the value of licences issued by France was listed as €136,282,263,077 (more than 75 per cent of all licences issued by the listed EU member states), while the value of arms exports was €11,009,946,644 (or 8 per cent by value of the licences issued), which was approximately 44 per cent of all deliveries reported by EU member states. In 2020, the value of licences was €118,233,148,951 (more than 70 per cent compared to all EU member states), while the value of delivered exports was €4,243,000,000 (which was around only 3.6 per cent by value of the licences issued), around 27 per cent compared to all

EU member states. Similar trends were recorded in preceding years. See European Union External Action Service, '[Licences – Yearly Overview](#)'. Compounding this discrepancy is that not all EU states report on deliveries (see footnote 1 above). The inclusion of such speculative licences in the French data renders any attempt to gain an understanding of overall or comparative EU licensing practice and trends effectively meaningless.

³ General Secretariat of the Council of the European Union (2019), 'User's Guide to Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment', 16 September, Chapter 3, Section 1.2(c), p 153.

quantities, broken down by ML category, destination and end-user. It should also set out whether the relevant items are from new production or existing (potentially surplus) stocks, and clarify the financial flows relating to the transfer; for example, if member states are being reimbursed for transfers of surplus equipment. This should appear in the COARM online database and in narrative form.

If reporting on all actual deliveries of military equipment by member states overlaps with reporting on deliveries under the EPF, member states should develop a shared system for distinguishing between EPF and other transfers and communicate clearly how this functions to avoid confusion or double counting.

Officials have often stressed that the denial notification and consultation mechanism is their most-valued element of the Common Position regime. Yet most member states publish little information on individual denials, while at the EU level the public online database includes only the total number of denials per ML category for each country of destination, and separately the number of denials under each of the Common Position criteria per ML category. The static EU Official Journal report consolidates this information; enhancing the COARM online system could allow for more streamlined and richer information on denials and consultations in a more user-friendly manner.

Saferworld notes that the Netherlands has for many years in its national annual reports produced a significant amount of information on each licence denied. In its latest annual report (covering 2021), this comprised: country of final destination; a brief description and the number of the items; the name of the recipient (for example, quoting at random from the report, DK Logistics Ltd, UAE Air Force, Plenty Shipbuilding Industry Co. Ltd, and many others); the end-user; the date of denial; and the reason or reasons (criteria) for the denial.⁴ It is unclear why, if the Netherlands can publish this information, others cannot. Publishing more baseline information and detailed reasoning for denials would provide more clarity on the interpretation and application of the Common Position criteria. It follows that this information could then be accumulated and tabulated in the EU report. **Saferworld therefore**

urges that member states move towards the Dutch standard of reporting on denials, publishing more information regarding these mechanisms and their outcomes.

Each year the combined EU report sets out the total number of consultations that each member state initiates and receives. It does not however include any information about the outcome of those consultations, that is, how often they result in an ‘undercut’, as opposed to how often a subsequent licence application for an ‘essentially identical transaction’ is denied by the second member state. This is the minimum requirement for external observers to judge how the consultation mechanism is functioning, and **we therefore urge the reviewed Common Position to include a requirement to share and publicly report this information.**

Saferworld also recommends that COARM’s deliberations be, as a matter of routine, subject to greater scrutiny and accountability. **Good practice would hold that, at a minimum, the dates, agendas and summarised minutes of all COARM meetings should be in the public domain.**

Russia’s invasion of Ukraine has seen some members limit their reporting on exports to Ukraine for perceived national security concerns. However, this shift has not been universal (see for example the level of reporting by the US), which raises doubts about its necessity. At the very least, member states should identify when and why information has been withheld, and reports should be updated to include this missing information as soon as possible.

The EU has historically been at the forefront of moves to improve arms export transparency and accountability, explicitly acknowledging the dangers of secrecy in this area and the value of openness. However, over the last decade or so, the EU has for the most part rested on its transparency laurels. Adopting the recommendations set out herein would see the EU and its member states once again promoting the principle that governments need to be properly accountable for their actions, while leading by example in the global arena.

⁴ Government of the Netherlands (2021), ‘Dutch arms export policy in 2021’, Annex 6: Licence application denials for military goods, p 60.