



# REARM EUROPE

## THE IMPACT AND ROLE OF EU ARMS EXPORT CONTROLS

### ABSTRACT

In response to the security challenges generated by Russia's full-scale invasion of Ukraine, the European Commission has launched several initiatives to boost rearmament in the EU. These include measures to strengthen the European Defence Technological and Industrial Base by means of facilitating joint arms production among EU member states. These measures call for both the simplification of existing regulations to facilitate the intra-EU transfers of defence products as well as an increased convergence of EU member states' arms export control policies.



The outcome and discussions taking place in the framework of the latest review of the EU common position on arms exports highlight the obstacles that any attempt to apply single market standards to intra-EU transfers of defence items will confront. There are increasing concerns about the negative impact that regulatory simplifications in this field could have, including the risk that exported weapons may be used to violate international law.

The EU and its member states should ensure that mechanisms to facilitate the intra-EU transfers of defence products and general efforts to boost rearmament plans are equipped with proper safeguards and transparency requirements in line with export control-related obligations. At the same time, this context also offers an opportunity to bridge EU internal discussions on intra-EU transfers and EU exports of military materiel.

### AUTHOR

**GIOVANNA MALETTA**  
Senior Researcher, Stockholm  
International Peace Research  
Institute (SIPRI)

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**THE FOUNDATION FOR EUROPEAN  
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European Political Foundation - N° 4 BE 896.230.213  
Avenue des Arts 46 1000 Brussels (Belgium)  
[www.feps-europe.eu](http://www.feps-europe.eu)  
@FEPS\_Europe



**STOCKHOLM INTERNATIONAL PEACE  
RESEARCH INSTITUTE (SIPRI)**

Signalistgatan 9, 169 72 Solna (Sweden)  
[www.sipri.org](http://www.sipri.org)  
@sipri.org



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FEPS Project Coordination and Review: Beatriz Abellán, Uwe Optenhögel, Vanessa Zwisele

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## LIST OF ACRONYMS

APM Convention	Anti-Personnel Mine Convention
ATT	Arms Trade Treaty
CFE treaty	Treaty on Conventional Armed Forces in Europe
CFSP	Common Foreign and Security Policy
CCM	Convention on Cluster Munitions
COCOM	Coordinating Committee for Multilateral Export Controls
COARM	Council's Working Party on Non-Proliferation and Arms Exports
CWC	Chemical Weapons Convention
EDF	European Defence Fund
EEAS	European External Action Service
EDIP	European Defence Industry Programme
EDIS	European Defence Industrial Strategy
EDTIB	European Defence Technological and Industrial Base
ICT Directive	The Intra-Community Transfers Directive
IHL	International humanitarian law
OSCE	Organization for Security and Co-operation in Europe
NPT	Treaty on the Non-Proliferation of Nuclear Weapons
SALW	Small arms and light weapons
SEAP	Structure for European Armament Programme
WMD	Weapons of mass destruction

## 1. INTRODUCTION

The current geopolitical landscape, and particularly the far-reaching repercussions generated by Russia's full-scale invasion of Ukraine, poses significant security challenges for the EU. This context is marked by increasing militarisation and strategic competition; progressive erosion of mutual trust and confidence among states; and a further deterioration of the international and regional frameworks for arms control, disarmament and non-proliferation.

In response to the challenges posed by such a deteriorated security environment, EU member states are in the process of increasing their level of military spending with a view to bolster their defence capabilities, achieve strategic autonomy and reduce critical technological dependencies from third countries. In parallel, the EU has launched ambitious plans to boost rearmament and defence readiness within the Union, including by means of strengthening the European Defence Technological and Industrial Base (EDTIB). One way in which the European Commission is seeking to achieve this goal is by deepening defence industrial cooperation within the EU by facilitating the joint development and production of military systems among EU member states. Many of the EU policy documents underlying these efforts stress that advancing collaborative armaments projects requires simplifying existing regulations to facilitate the intra-EU transfers of defence products by means of creating a single internal market for defence items, as well as enhancing convergence of EU member states' arms export control practices.

It is against this background that the EU, through the European External Action Service (EEAS), and EU member states have conducted the third review process of the EU common position on arms exports concluded in April 2025. This process of review included a strong focus on enabling collaborative defence production and discussed a range of measures to achieve this goal. The content and outcome of those discussions give an indication of how complex these issues are and the challenges

that any attempt to apply single market standards to intra-EU transfers of defence items will confront. Arms export controls remain a particularly sensitive issue for EU member states and central to their national foreign and security policies, which make them reluctant to relinquish prerogatives in this area to EU institutions. In parallel, representatives of non-governmental organisations (NGOs) and civil society, including experts from academia and research institutes, have argued that efforts to facilitate joint defence production through regulatory simplification and harmonisation of arms export control policies could lead to an erosion of EU standards in this field and, in the long term, create a greater risk of arms transfers violating human rights and international humanitarian law (IHL).

This policy brief examines EU efforts to strengthen the EDTIB as part of wider rearmament plans and their efforts to create free movement of defence items within the EU and harmonise EU member states' arms export controls. It looks into the challenges and concerns that these efforts raise and makes recommendations for an approach that would allow the EU to address its legitimate security concerns without creating greater risks of irresponsible transfers in the longer term. Section 2 provides a selected account of the main developments occurring in the field of arms control, disarmament and non-proliferation since the end of the Cold War and an overview of the EU framework for intra-EU transfers of defence items and arms exports controls. Section 3 elaborates on the main initiatives that the EU has launched in recent years to boost rearmament and defence readiness with a particular focus on measures to incentivise the joint production of military equipment among EU member states and the possible export control-related challenges that these efforts may confront. Section 4 focuses on the outcome of the latest review of the common position and, particularly, on discussions and decisions taken on the topic of facilitating the export of jointly produced military equipment and the concerns that these raise. Section 5 concludes with policy recommendations for the EU and EU member states.



## 2. ARMS CONTROL AND EXPORT FRAMEWORKS: AN OVERVIEW OF MAIN INTERNATIONAL DEVELOPMENTS AND EU INSTRUMENTS

### Arms control, disarmament and non-proliferation efforts after the end of the Cold War

In the current geopolitical context, the international framework for arms control (i.e., efforts to limit the number of weapons states own or to regulate their use), disarmament (i.e., the efforts to completely or progressively ban a class or a category of weapons) and non-proliferation (i.e., efforts to limit the spread of certain weapon systems)<sup>1</sup> is facing significant challenges. This framework significantly broadened in the post-Cold War period when, as a result of more favourable conditions for international cooperation, states were able to establish or strengthen treaties, agreements and other regulatory instruments to support these efforts.

Measures to ban weapons of mass destruction (WMD) were expanded with the adoption of the Chemical Weapons Convention (CWC) in 1992. The CWC complemented earlier obligations prohibiting biological weapons under the 1975 Biological Weapons Convention and commitments to achieve nuclear disarmament under the 1970 Treaty on the Non-Proliferation of Nuclear Weapons (NPT). In 1995, states parties to the NPT opted for an indefinite extension of the treaty. The end of the Cold War was also marked by several rounds of mutual nuclear arms reduction agreements between the USA and Russia, which, over time, led to an overall decrease in the global inventory of nuclear weapons.<sup>2</sup>

In Europe, the 1990s witnessed the emergence of numerous initiatives to promote conventional arms control measures between NATO members and countries previously part of the Warsaw Pact, with a view to building confidence and trust among these groups of countries. Initiatives such as the Treaty on Conventional Armed Forces in Europe (CFE treaty) and other confidence- and security-building measures developed under the Organization for

Security and Co-operation in Europe (OSCE), such as the Vienna document, sought to enhance states' transparency in military activities and capabilities. These measures helped to reduce the number of certain categories of conventional weapons and put some limitation on their deployment.<sup>3</sup> At the global level, conventional weapons control efforts focused on banning entire categories of weapons on the basis of the disproportionate and unacceptable harm that they could cause to civilians. Major achievements in this regard included the adoption of the 1997 Anti-Personnel Mine (APM) Convention – which prohibits the use, stockpiling and transfer of anti-personnel landmines – and the 2008 Convention on Cluster Munitions (CCM) – which prohibits the use, production, transfer and stockpiling of cluster munitions.<sup>4</sup> Additionally, since the 1990s, the security and humanitarian risks generated by irresponsible arms transfers, particularly small arms and light weapons (SALW), started to gain increasing international attention and paved the way to various initiatives to mitigate such risks. These included the adoption of the 2001 UN Programme of Action on SALW – a politically binding international agreement outlining standards that states should adopt to address and prevent the diversion of SALW at all stages of their life cycle – and, later, the 2013 Arms Trade Treaty (ATT) – the first legally binding international treaty establishing standards for international arms transfers.<sup>5</sup>

The post-Cold War period also saw the strengthening of multilateral cooperation in the field of export controls to prevent the proliferation of both WMD and conventional weapons. Export controls are among some of the policy tools that states use “to implement the non-proliferation aspects of arms control”, although these tools are also used to pursue other aspects of state policy (e.g., economic or national security goals).<sup>6</sup> During the Cold War, states from the two confronting blocs mostly used export controls to try to prevent transfers of their own arms and key military-related technologies to the other side. For instance, the Coordinating Committee for Multilateral Export Controls (COCOM) was established in 1949 by Western states to control exports of military and dual-use items to the Eastern bloc. In 1996, COCOM was replaced by the

Wassenaar Arrangement, the membership of which was also subsequently expanded to include Russia and former members of the Soviet bloc. Other multilateral export control regimes, the Australia Group, the Missile Technology Control Regime and the Nuclear Suppliers Group, had already been established to promote informal cooperation among major suppliers to prevent the illicit procurement of dual-use items for the development of WMD and their delivery systems. After the Cold War, their membership grew after many states from the former Warsaw Pact or previously part of the Soviet Union became participants to these forums.

The EU and its member states have sought to support broader efforts in the field of arms control, disarmament and non-proliferation in different ways. The 2003 EU strategy against the proliferation of WMD, adopted under the Common Foreign and Security Policy (CFSP), explicitly made non-proliferation one of the pillars of the EU's external action.<sup>7</sup> The strategy stresses the role of effective multilateralism to achieve goals such as the implementation and universalisation of disarmament and non-proliferation treaties. These objectives were reiterated in the 2016 EU Global Strategy, which restates the EU's commitments to broadening participation in, and ensuring the full implementation and enforcement of, multilateral disarmament, arms control and non-proliferation regimes.<sup>8</sup> The EU has pursued these objectives by providing long-term financial and technical assistance to relevant international and regional organisations.<sup>9</sup> The EU and its member states are also strong supporters of the multilateral export control regimes and established a common legal framework for controls on the export, brokering, transit and trans-shipment of dual-use and military items, as well as assistance programmes to support export control-related capacity building efforts in third countries.<sup>10</sup>

The already deteriorating security environment at both the global and European levels, which has significantly worsened since 2022 after Russia's full-scale invasion of Ukraine, has further reduced the prospects of states' cooperation in the field of disarmament, arms control and non-proliferation,

which had already entered a crisis some time ago.<sup>11</sup> Nuclear arsenals are growing and undergoing processes of modernisation.<sup>12</sup> It also remains unclear whether Russia and the USA will renew nuclear reductions and limitations-related commitments in the nearby future. While in September 2025 Russian President Putin signalled his willingness to extend the New Start Treaty, set to expire in February 2026, the USA has not formally responded to this proposal yet.<sup>13</sup> Deteriorating relationships between Russia and the West have also weakened or led to the end of key conventional arms control treaties in Europe, such as the CFE treaty.<sup>14</sup> Multilateral cooperation in the field of export controls is also being negatively affected by the difficulty in advancing relevant work within the export control regimes that Russia participates in. Increasing competition over the control of critical technologies between China and the USA and its allies, which has sharpened in the current security environment, also challenges cooperation on export control-related issues among states.<sup>15</sup>

**While EU member states have remained broadly committed to the disarmament, arms control and non-proliferation framework, they have also taken a series of steps in response to the perceived growing Russian military threat and the security challenges posed by the invasion of Ukraine, which risk undermining their commitments or existing standards in this domain.** For instance, between 2024 and 2025, some EU member states decided to withdraw from the 1997 APM and 2008 CCM conventions, thus backtracking on commitments that they had taken in the field of arms control and disarmament.<sup>16</sup> The UN High Commissioner for human rights, along with international NGOs, has expressed concerns in relation to these decisions, flagging the negative impact that these could have on international law and the protection of civilians.<sup>17</sup> EU policies on arms control and export controls are also undergoing a period of discussion as a result of ongoing rearmament plans and other associated initiatives. These initiatives are leading to a re-examination of EU member states' policies and practices in the field of intra-EU defence transfers and arms export controls and the relevant standards



and regulatory frameworks that have been developed at the EU level in this field.

### **The EU framework for intra- and extra-EU transfers of military equipment**

Within the EU, arms export controls, along with other security- and defence-related issues, are an exclusive competence of EU member states.<sup>18</sup> Within the framework of the CFSP and following a process of progressive harmonisation that started in the 1990s, EU member states have agreed on high common standards “for the management of, and restraint in, transfers of military technology and equipment” outside of the EU, with a view to promoting greater convergence and transparency in their arms export control policies.<sup>19</sup> These standards are currently outlined in the EU Common Position 2008/944/CFSP on arms exports, which was adopted in 2008 and revised and updated in 2025.<sup>20</sup> At the core of the common position are eight risk assessment criteria, which EU member states shall consider while assessing their arms export decisions. The criteria focus on various types of risks, including that exported weapons may be used in violations of human rights or IHL, exacerbate existing conflicts or be diverted towards unauthorised recipients. The common position is accompanied by a User’s Guide, which assists EU member states in the application and interpretation of the risk assessment criteria and the implementation of other relevant provisions.<sup>21</sup> EU member states and the EEAS regularly discuss the implementation of the common position in the context of the conventional arms exports subgroup of the Council’s Working Party on Non-Proliferation and Arms Exports (COARM). COARM also regularly undertakes processes of review of the common position.

At the internal level, the EU sought to regulate and facilitate intra-EU transfers of defence-related products since 2009 with the adoption of EU Directive 2009/43/EC (the Intra-Community Transfers [ICT] Directive), which entered into force in 2012.<sup>22</sup> The ICT Directive is part of EU internal market measures and its implementation is overseen by the European Commission’s Directorate-General for Defence

Industry and Space (DG DEFIS). The directive was adopted as part of a broader package of measures developed by the European Commission to reduce barriers to defence industry cooperation within the EU by seeking to simplify export licensing procedures for transfers of military equipment and related components to certain designated recipients within the EU.<sup>23</sup> Particularly, the directive introduced a new licensing framework for the transfers of defence-related products within the EU, which envisages the use of general, global or individual transfer licences published or granted by the member state from whose territory the supplier wishes to transfer such products.<sup>24</sup> In this regard, the directive calls for the publication by EU member states of at least four types of general licences, covering intra-EU transfers of defence related products to the armed forces, to certified entities, for exhibition purposes, and for repair or maintenance. The directive also abolishes requirements for transit and trans-shipment licences for defence items originating in another EU member state and introduces a series of exemptions to the obligation of prior authorisation for intra-EU transfers.

Both the common position and the ICT Directive are legally binding. However, given their prerogatives in security and defence matters, EU member states retain a certain degree of discretion in the way they implement these instruments, which has led to some discrepancies in the way they have been applied.<sup>25</sup> Furthermore, these policy instruments are framed under different legal and institutional structures and overseen by different entities, which has generated a certain disconnect between measures focused on intra-EU transfers and on arms exports outside of the EU.<sup>26</sup>

### 3. REARMING EUROPE THROUGH THE PROMOTION OF JOINT MILITARY PRODUCTION: MAIN INITIATIVES AND EXPORT CONTROL-RELATED CHALLENGES

#### Recent EU initiatives in support of defence industrial cooperation

The EU's efforts to strengthen the EDTIB by means of fostering more cooperation within the European defence industry are not new. One major development has been the establishment of the European Defence Fund (EDF) under the 2021-2027 EU Multiannual Financial Framework. The EDF supports companies across the EU to launch cooperative defence projects to jointly develop and produce military technologies and equipment.<sup>27</sup> EU initiatives to strengthen defence cooperation among EU member states gained new momentum in 2022, following Russia's full-scale invasion of Ukraine. Immediate responses, such as the European Defence Industry Reinforcement through Common Procurement Act and the Act in Support of Ammunition Procurement, focused on allocating resources to incentivise EU member states to jointly procure military items and to support their efforts to provide Kyiv with military equipment.<sup>28</sup> EU-led efforts have also focused on creating longer-term institutional and strategic solutions to strengthen EU defence capabilities by means, among other things, of promoting joint development, production and procurement of military equipment among EU member states. Security and defence are among the European Commission's current political priorities, which include the objective of creating a "European defence union". Achieving this objective foresees developing a single market for defence products and services, strengthening defence research and development and production capacity, and promoting joint procurement.<sup>29</sup>

The 2024 European Defence Industrial Strategy (EDIS) aligns with these goals and provides a strategic framework for initiatives aimed at strengthening the EDTIB and defence industrial readiness. EDIS encourages EU member states to "cooperate more

throughout the capability life cycle, starting at the research, development and procurement phase".<sup>30</sup> It also provides for the establishment of the European Defence Industry Programme (EDIP) to operationalise these objectives by enabling the EU to provide financial and administrative support for arms production, maintenance of jointly procured systems and defence industrial cooperation with Ukraine.<sup>31</sup> The regulation establishing EDIP was proposed by the European Commission in 2024. Following a series of negotiations, in October 2025, the Council and the European Parliament reached a provisional agreement on the establishment of this instrument.<sup>32</sup>

EU plans to support the strengthening of the EDTIB further accelerated at the beginning of 2025. The re-election of Donald Trump, the prospect of the USA militarily disengaging from Europe and uncertainties regarding US policy on Ukraine have driven additional EU-led responses to strengthen EU defence cooperation. In March 2025, the European Commission announced the ReArm Europe/Readiness 2030 plan.<sup>33</sup> The plan stresses that a process of regulatory simplification in the defence sector is needed to allow the EDTIB to respond more flexibly to current needs, and thus, fulfil EU rearmament objectives.<sup>34</sup> Proposals to simplify or harmonise relevant legislative frameworks were issued in June 2025 by the European Commission and outlined in the Defence Readiness Omnibus package.<sup>35</sup>

#### Promoting the joint production of military systems to achieve rearmament goals

This selected overview of most recent EU initiatives to strengthen the EDTIB shows a progressive expansion in the scope and ambition of the EU's role, particularly the European Commission, in this field. These initiatives include a diverse range of instruments, from strategic documents to industrial funding schemes and legislative proposals. Something these initiatives have in common is the goal of promoting and facilitating the joint development and production of military equipment among EU member states to achieve rearmament

goals and strengthen EU defence readiness more broadly. The measures proposed in this area include a focus on the simplification of existing controls on the intra-EU transfers of defence-related products, on assigning the European Commission more prerogatives with respect to simplification and harmonisation procedures, and enhancing convergence of EU member states' arms export control policies. The European Commission has indicated, as one of the rationales in support of these measures, the significant challenges that EU defence industrial programmes face within the EU.<sup>36</sup> Challenges identified by the European Commission include the negative impact of lengthy and complex licensing processes to transfer items among EU member states.<sup>37</sup> Lack of streamlined and more convergent arms export control practices for jointly developed military systems among EU member has also been seen by the European Commission as a potential obstacle in this context.<sup>38</sup>

One way in which the EU-led initiatives outlined above propose to overcome these obstacles is to incentivise EU member states interested in entering a cooperative armament programme to agree on a common export control approach at the outset or before entering a project. For instance, EDIS notes that one of the difficulties which the implementation of the EDF has encountered is the "commercialisation gap", namely, moving from the prototyping phase following the R&D stage to the industrialisation of jointly developed products developed through EDF projects. Within EDIS, the European Commission argues that this could be overcome if the EU member states involved within EDF projects would agree "when the prototype stage is reached, on the conditions for export of the jointly developed products".<sup>39</sup> In this context, the European Commission reiterates its previous call to "member states to explore ways towards the streamlining and gradual further convergence of their arms export control practices, especially for those defence capabilities that are jointly developed".<sup>40</sup> EDIS and EDIP propose and outline details for the creation of Structures for European Armament Programme (SEAPs), which would provide EU member states with a legal framework creating standardised procedures for the joint procurement and joint life-cycle

management of defence products. This framework would also provide financial incentives for EU member states that "agree on a common approach to exports" of products that have been jointly procured through a SEAP.<sup>41</sup> However, the creation of incentives to promote the joint production of military equipment, including by means of facilitating export procedures, is not accompanied, particularly in EDIP, by a detailed elaboration of the obligations in the domain of arms export controls that EU member states have under EU and international instruments. This is particularly important as these instruments also highlight the need to preserve the export ability of the EDTIB.<sup>42</sup>

**Many of the EU-led initiatives in the field of defence also seek to remove regulatory barriers to intra-EU transfers of defence products with a view to promoting further integration in the EDTIB, accelerating defence industrial build-up and promoting the establishment of a truly EU defence internal market.** This is presented as a necessity in both EDIS and the ReArm Europe/Readiness 2030 plan and the Defence Readiness Roadmap. Practical proposals to achieve this objective are part of the European Commission's Defence Readiness Omnibus package, which include a legislative proposal to amend the ICT Directive.<sup>43</sup> The amendments to the ICT Directive aim to achieve further simplification in the area of intra-EU defence transfers. For instance, they propose creating a specific general transfer licence that EU member states could use to authorise the intra-EU transfer of defence-related products occurring as part of projects funded by the EU. Under these projects, EU member states should refrain from imposing additional requirements, such as end-use certificates or export restrictions, on other EU member states when defence-related products may be re-exported outside of the EU.<sup>44</sup> The proposal to amend the ICT Directive also assigns more prerogatives to the European Commission in defining and implementing this framework. For instance, these include the possibility for the commission to establish a harmonised approach for the implementation of specific provisions of the directive, such as defining what constitutes a sensitive component that may be excluded from simplified licensing procedures, or to

introduce a de minimis rule below which transfers would be exempted from prior authorisation.<sup>45</sup>

### ***Joint production of military systems: Export control-related challenges***

**The measures proposed by the European Commission to enhance the joint development and production of military equipment among EU member states foresee some significant changes in the way intra-EU transfers of defence products and the EU exports of military equipment are regulated. They also imply that EU member states may lose some of the autonomy they have in setting policies in these areas.**

However, EU member states have, in different instances, shown their willingness to retain national control over key aspects of their arms exports. For instance, they have often required individual licences for the intra-EU transfer of nationally defined lists of items.<sup>46</sup> Furthermore, EU member states have retained the ability to decide when certain items are not going to be included in the scope of licences published in accordance with the ICT Directive and to publish nationally determined general licences.<sup>47</sup> At the same time, EU member states were able to create avenues outside of the framework of the ICT Directive to facilitate intra-EU defence transfers. For instance, some of them have published national general transfer licences to facilitate transfers of defence products in the context of cooperative armament projects.<sup>48</sup>

The ICT Directive is focused on the technical aspects of licencing procedures but not the political dimensions of arms exports outside of the EU.<sup>49</sup> This reflects the context in which the directive was adopted. Specifically, the European Commission supported the liberalisation of the internal defence market on the grounds that the EU common position had achieved convergence in EU member states' arms export policies and reduced the need to maintain controls on the movement of these items within the EU.<sup>50</sup>

However, although over the years EU member states' arms export control systems have achieved

a certain level of convergence, there remain some variations, including in the way states interpret and apply the common position's export control criteria. These discrepancies are rooted in EU member states' different foreign and security policy interests and priorities, the particular ties they have with certain recipient countries, and the relationship they have with their national defence industry. Above everything, states view decisions on arms export controls as part of their core state competence, and national governments also remain primarily accountable in front of their parliaments for such decisions.<sup>51</sup> As a result, there are differences in the way EU member states view and assess arms exports.<sup>52</sup> At times, this has resulted in EU member states adopting more or less restrictive arms export control policies towards destinations perceived as particularly sensitive. Over the last decade, this has been the case, for instance, for arms transfers towards members of the Saudi-led coalition that militarily intervened in the conflict in Yemen in 2015. Citing concerns over alleged violations of IHL during the conflict by members of the coalition, some EU member states have halted or restricted exports of military equipment to Saudi Arabia and its allies, while others have continued with their arms sales.<sup>53</sup> Similar dynamics have emerged more recently in relation to arms transfers to Israel since the beginning of its military offensive in Gaza following the Hamas attack of 7 October 2023, amid increasing allegations and evidence of serious IHL violations of Israel's military in the conduct of hostilities, including accusations, formulated within various reports produced by UN bodies or experts appointed by the UN, that Israel has committed genocide against the Palestinian people in Gaza.<sup>54</sup>

Disagreements on the potential or actual export of completed weapon systems to certain extra-EU destinations have sometimes resulted in tensions among EU member states participating in projects for the joint development and production of military equipment. For example, in 2018, Germany's decision to suspend arms exports to Saudi Arabia in response to alleged violations of IHL in Yemen led to tensions with France, as the policy affected the export of weapon systems that integrated key components manufactured in Germany.<sup>55</sup> **To the**



**extent divergences in EU member states' arms export policies towards certain destinations are driven by different foreign and security policy interests, pursuing convergence and regulatory simplification to support efforts to strengthen the EDTIB are likely to encounter resistance.** Maintaining national controls over arms exports and intra-EU transfers of defence products have also provided EU member states with a tool to address concerns they had in relation to serious violations of international law arising from certain exports, thereby enabling them to uphold the high common standards to which they have committed.

#### **4. THE THIRD REVIEW OF THE EU COMMON POSITION AND DISCUSSIONS ON THE EXPORT OF JOINTLY PRODUCED MILITARY EQUIPMENT**

##### **The third review of the EU common position on arms exports**

EU member states and the EEAS, through COARM, are required to regularly conduct a process of review of the common position. Such review processes have generally addressed issues like the application of the export control criteria, ways to enhance convergence in EU member states' arms export control policies and public transparency on arms transfers, and taken steps towards improvements in these areas.

The latest review process, the third one since the common position was adopted in 2008, concluded in April 2025 and resulted in changes to both the text of the common position and the User's Guide.<sup>56</sup> Compared to previous review processes, revisions to the text of the common position were more substantial than in the past, and some changes affected the language of the eight export risk assessment criteria, something that EU member states had previously been hesitant to do.<sup>57</sup> Some adjustments were made to bring relevant text in line with the risk assessment provisions of the ATT, particularly that licence applications should be assessed not just against the risk of exported weapons being used to commit serious violations of

IHL and human rights, but also against the risk that these may be used to facilitate such violations.

Other revisions and measures that were adopted could be seen as reflecting the context in which this process occurred, particularly the security challenges created by Russia's war of aggression against Ukraine and the desire to strengthen the EDTIB in response.<sup>58</sup> Particularly, the review process also addressed issues related to the export of jointly produced military equipment. EU member states selected this topic as one of the dedicated focuses of discussion for this review process, thus acknowledging the challenge and relevance of coordinating arms export control policies to achieve meaningful cooperation in this area. Discussions mostly focused on possible common approaches for the export of these items outside of the EU and led to some changes to both the text of the common position and the User's Guide.<sup>59</sup>

##### **Outcome of the review and remaining challenges**

Article 7 of the EU common position was revised to encourage EU member states involved in cooperative armament projects to make use of "facilitating mechanisms" to promote convergence on exports of equipment produced in this way and to consult one another during their risk assessment processes. Possible options for what these mechanisms could be are outlined in a toolbox to facilitate export control of jointly developed products, which was added to the User's Guide.<sup>60</sup> One of the proposed mechanisms suggests treating the member state where the final integration of a jointly developed military system occurs as the country of final destination, without the need to ask for "re-export" guarantees. The toolbox also foresees EU member states defining a decision-making procedure to determine eligible recipients for the export of jointly produced military equipment or defining common ground to manage possible disagreements regarding the export of these systems outside of the EU. Another suggested approach is that EU member states that act as suppliers of components that are integrated into jointly developed military systems exported



outside of the EU use general or global licences for the intra-EU transfer of such components. In this case, it would be the EU member state where final integration occurs that would assess the export licence application against the criteria of the common position.

To some extent, the outcome of the review, insofar as the export of jointly produced systems is concerned, seems to legitimise and encourage forms of defence industrial cooperation that some EU member states have already been establishing for several years.<sup>61</sup> However, these initiatives – such as the Debré-Schmidt agreement between France and Germany and the Letter of Intent/Framework Agreement between France, Germany, Italy, Spain, Sweden and the UK – have been quite varied and have also not been channelled through the EU framework.<sup>62</sup> The most recent example of such agreements is a trilateral agreement between France, Germany and Spain. Initially signed by France and Germany in October 2019, to address export control divergences over jointly developed equipment destined for Saudi Arabia, the agreement was joined by Spain in 2021.<sup>63</sup> Both the Netherlands and Sweden have expressed an intention to join.<sup>64</sup> The trilateral agreement defines a series of rules and procedures for export controls on military items that aim to prevent or handle possible disagreements among states party to the agreement regarding the exports of jointly produced military systems. These include, for instance, the application of a de minimis rule for exports and a commitment to refrain from opposing the export of a complete system to another state, unless the transfer may contravene another state party's national security interests.<sup>65</sup>

However, the review of the common position failed to define a clear framework for decisions regarding the export of jointly produced military equipment with established rules and procedures, such as those outlined in the trilateral agreement. The choice to present a series of possible mechanisms for the export of jointly developed systems, from which EU member states can decide, and to do so within the non-legally binding User's Guide, in reality postponed the adoption of any concrete measure in this area. Furthermore, **the possibility that some**

**EU member states will implement the mechanisms proposed in the User's Guide, and potentially do so inconsistently, while others will not make use of them at all, risks creating a lack of harmonisation and perpetuating divergences in states' practices witnessed in relation to the implementation of the ICT Directive.**

Most importantly, the decision to land on a menu of options instead of agreeing on a common framework for the export of jointly produced military systems gives a clear indication of how complex it may be for EU member states to define clear and unified terms of cooperation in this area within the EU framework. Many of the mechanisms proposed in the toolbox foresee scenarios in which smaller EU member states, that is, those states that mostly provide parts and components for integration within jointly produced systems, give up or reduce their prerogative to say whether the final system should be approved for export outside of the EU. Given the centrality that arms export controls still have in EU member states' foreign and security policy, and the ongoing differences in how they view exports to certain destinations, they are likely to be unwilling to relinquish all control in this area. **The outcome of the review of the common position therefore highlights the challenges that any attempt by the European Commission to apply single market standards to intra-EU transfers of defence items will confront.**

The push to create mechanisms aimed at facilitating the export of jointly produced military equipment as a way to incentivise defence industrial cooperation within the EU also present problematic aspects, which have been highlighted by NGOs and civil society, including experts from academia and research institutes.<sup>66</sup> As EU member states continue to disagree on which arms exports should be considered appropriate, seeking to define or apply such mechanisms may come at the expense of achieving the highest possible standards in the field of arms export controls and create incentive structures that favour the lowest common denominator.<sup>67</sup> **Designating the member state where final integration of jointly produced military systems occurs as the final destination for intra-**

**EU defence transfers, or granting this state with the final decision over the export of such systems, risks concentrating export control power within the EU in a small group of states with major defence industries.** This would likely reduce the opportunities for smaller states to voice disagreements and concerns, including that exported final products may be used in connection with violations of IHL or human rights, something on which EU member states have shown different views and sensitivities on multiple occasions. More generally, the options discussed at COARM and included in the User's Guide all seem to be geared towards facilitating the export of jointly produced items rather than discussing cases in or destinations towards which these exports would be refused.<sup>68</sup>

The Council conclusions, which were published at the end of the process of reviewing the common position, task COARM to “agree on means to facilitate exports of military technology and equipment jointly developed by member states”. **Considering that measures to implement EU rearmament plans and to strengthen the EDITB are still in the phase of being discussed and that the export of jointly produced equipment is not likely to be a concern in the short- to medium-term future, this provides the EU and EU member states with a window of opportunity to engage in a wider discussion on how the EU's legitimate security concerns can be addressed in a way that does not weaken existing standards in the field of arms export controls.**

## 5. CONCLUSIONS AND POLICY RECOMMENDATIONS

The following recommendations for EU and EU member states aim to inform the current debate on EU rearmament plans and particularly on the measures proposed by the European Commission to strengthen the EDTIB by means of simplifying the EU regulatory framework for intra-EU defence transfers and achieve greater convergence in EU member states' arms exports to third countries. They suggest steps that would allow the EU to address its legitimate security concerns without creating greater risks of irresponsible transfers in the longer term.

### **Create stronger linkages between the European Commission's initiatives to strengthen the EDTIB, the EU regulatory framework for arms export controls and other relevant standards.**

Policy documents and instruments developed by the European Commission to strengthen the EDTIB should be better linked with the obligations and standards that EU member states have adopted under both the common position and other relevant instruments, such as the ATT, which require, among others, to assess the risk that exported weapons may be misused to violate international law. For instance, the proposal to establish EDIP does not reference any such standards and obligations, nor the need for non-EU countries that may constitute a SEAP to adhere to the same level of standards as EU member states.

### **Build adequate safeguards and transparency requirements in mechanisms to facilitate the export of jointly produced items.**

While some degree of procedural simplification may be desirable, there are risks attached to proposals that aim to simplify intra-EU transfers of defence products by means of preventing EU member states from requesting re-export guarantees and end-use certificates. Simplification proposals should maintain the ability of all EU member states involved in cooperative armaments projects to affect decision-making processes related to the export of jointly produced military systems, not just in cases of

transfers that may affect their national security but also in cases where such transfers may generate the risks outlined in the common position.<sup>69</sup> Efforts to facilitate the intra-EU transfer of defence products also encourage EU member states to publish and use general transfer licences. However, the increased use of general transfer licences should also be accompanied by greater transparency requirements for how these licences are used and which transfers and items they cover. At the moment, there is a high degree of discrepancy in the way EU member states report on the use of these licences, which undermines the level of transparency in this area.

### **Connect discussions on intra-EU transfers and EU exports of military materiel.**

The EU's legal and institutional structures, particularly the existence of separate channels for legislating on and discussing intra-EU defence transfers and EU arms exports, create significant barriers to a full and comprehensive discussion of joint cooperation on defence production. As a way to bridge such divisions and connect relevant discussions, COARM could be made the primary location for discussing member states' implementation of the ICT Directive (likely in cooperation with DG DEFIS). This would enable member states to discuss their assessments of the appropriateness of exports to extra-EU destinations and the implications of these for their controls on intra-EU transfers.

### **Engage in wider discussions and assessments of the potential recipients for EU-funded defence projects.**

The expansion of avenues for EU-funded defence projects could be an opportunity to have more substantive discussions on arms exports among EU member states. These could cover assessing the potential recipients of complete systems developed as part of these projects, including on the basis of the type of equipment under consideration. These discussions could similarly assess the opportunity for non-EU states to become part of cooperative armaments projects.

## APPENDIX

**Table 1. A glossary of terms used in this paper for EU defence-related initiatives.**

EDTIB	While there is no established definition of the term, a defence technological industrial base can be intended as a conceptual framework that encompasses the infrastructure and institutions which ensure the security of supply of military material and services to the armed forces of a country. At the EU level, the EDTIB aims to fulfil this role.
EDIS	EDIS is a joint communication of the European Commission and the EU High Representative adopted in 2024 that formulates a vision for European defence industrial policy until 2035 and outlines measures to strengthen the competitiveness and readiness of the EDTIB in this timeframe.
EDIP	EDIP is a regulation proposed by the Commission in 2024 outlining concrete steps to implement the measures indicated in EDIS by means, among others, of providing financial and administrative support for arms production, maintenance of jointly procured systems and defence industrial cooperation with Ukraine.
ReArm Europe/ Readiness 2030 plan	The ReArm Europe/Readiness 2030 is a plan presented by the European Commission in March 2025 outlining measures to facilitate a boost in defence spending within the EU. In October 2025, the European Commission and the EU High Representative presented the “Preserving Peace – Defence Readiness Roadmap 2030”, which sets out steps to achieve defence readiness objectives, as outlined in the ReArm Europe/Readiness 2030 plan.
Defence Readiness Omnibus	The Defence Readiness Omnibus is a package of regulatory simplification proposals presented by the European Commission in June 2025. It includes proposals that aim to facilitate and accelerate the development of defence capabilities and infrastructure by EU member states and industry to reach the readiness objectives set by the ReArm Europe/Readiness 2030 plan and other relevant documents.

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## About the author



### Giovanna MALETTA

Giovanna Maletta is a Senior Researcher in the SIPRI Dual-Use and Arms Trade Control Programme. From January 2023 to August 2024, she was Acting Director of the same programme. In 2017, she joined SIPRI as an EU Non-Proliferation Consortium Intern and has been working there since then.

Her research work at SIPRI includes issues related to the implementation of national, multilateral and international export control standards and instruments, with a particular focus on the EU framework for strategic trade controls and the Arms Trade Treaty. She is currently working on research projects examining the role of export controls in addressing processes of militarisation of civilian technologies and developments in China's export control system.



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