Official Journal
of the European Union

EN
L series

2025/779

15.4.2025

COUNCIL DECISION (CFSP) 2025/779

of 14 April 2025

amending Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

(1) On 8 December 2008, the Council adopted Common Position 2008/944/CFSP ([1]), which updated and replaced the European Union Code of Conduct on Arms Exports adopted by the Council on 8 June 1998.

(2) Common Position 2008/944/CFSP outlines the foreign and security policy criteria that each Member State must use to assess, on a case-by-case basis, export licence applications. Since the adoption of Common Position 2008/944/CFSP, a number of developments both at international and Union level have resulted in a need to revisit those criteria and to impose new obligations and commitments for assessing export licence applications.

(3) On 16 September 2019, the Council adopted conclusions on the review of Common Position 2008/944/CFSP, tasking the Working Party on Conventional Arms Export Controls (COARM) with reassessing the implementation of that Common Position.

(4) Article 21 of the Treaty on European Union provides that the Union's action on the international scene is to be guided by the principles which have inspired its own creation, and which it seeks to advance in the wider world. These include democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.

(5) In accordance with Article 21(2) of the Treaty on European Union, the Union is to work for a high degree of cooperation in all fields of international relations, including to consolidate and support democracy, the rule of law, human rights and the principles of international law, as well as to preserve peace and international security.

(6) In accordance with the second subparagraph of Article 21(3) of the Treaty on European Union, the Union is required to ensure consistency between the different areas of its external action. In this respect, the Council takes note, inter alia, of Regulations (EU) 2021/821 ([2]) and (EU) 2025/41 ([3]) of the European Parliament and of the Council.

(7) In order to maximise the effectiveness of this Common Position, Member States should work within the framework of the common foreign and security policy to reinforce their cooperation and to promote their convergence in the field of exports of military technology and equipment, inter alia, by exchanging relevant information, including information on specific destinations and on denial notifications, arms export policies and, where appropriate, end-use monitoring, by consulting on their risk assessment, as well as by identifying possible measures to further increase convergence and to promote unity and coherence in the Union's external action.

([1]) Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment (OJ L 335, 13.12.2008, p. 99, ELI: http://data.europa.eu/eli/compos/2008/944/oj).

([2]) Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (OJ L 206, 11.6.2021, p. 1, ELI: http://data.europa.eu/eli/reg/2021/821/oj).

([3]) Regulation (EU) 2025/41 of the European Parliament and of the Council of 19 December 2024 on import, export and transit measures for firearms, essential components and ammunition, implementing Article 10 of the United Nations Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol) (OJ L, 2025/41, 22.1.2025, ELI: http://data.europa.eu/eli/reg/2025/41/oj).

(8) It is therefore appropriate to further reinforce cooperation among Member States on rules relating to export licencing and promote convergence in the field of exports of military technology and equipment. It is also necessary to set and uphold revised criteria against which the control of the transfer of such technology is to be assessed. These aims can be achieved by updating Common Position 2008/944/CFSP to ensure high common standards in the implementation of the control of transfers of such technology and equipment.

(9) Common Position 2008/944/CFSP should therefore be amended,

HAS ADOPTED THIS DECISION:

Article 1

Common Position 2008/944/CFSP is amended as follows:

(1) Article 2 is replaced by the following:

'*Article 2*

Criteria

1. Criterion One: Respect for the international obligations and commitments of Member States, in particular the restrictive measures adopted by the United Nations Security Council or by the European Union, agreements on non-proliferation and other subjects, as well as other international obligations and commitments.

An export licence shall be denied if approval would be inconsistent with the international obligations and commitments of Member States, including:

(a) the obligations of Member States and their commitments to enforce United Nations, European Union and Organisation for Security and Cooperation in Europe arms embargoes;

(b) the obligations of Member States under the Nuclear Non-Proliferation Treaty, the Biological and Toxin Weapons Convention and the Chemical Weapons Convention;

(c) the obligations of Member States under the Convention on Certain Conventional Weapons and the relevant Protocols annexed thereto;

(d) the obligations of Member States under the Arms Trade Treaty;

(e) the obligations of Member States under the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Ottawa Convention);

(f) the commitments of Member States under the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects;

(g) the commitments of Member States under the Global Framework for Through-life Conventional Ammunition Management;

(h) the commitments of Member States in the framework of the Australia Group, the Missile Technology Control Regime, the Zangger Committee, the Nuclear Suppliers Group, the Wassenaar Arrangement and The Hague Code of Conduct against Ballistic Missile Proliferation.

2. Criterion Two: Respect for human rights in the country of final destination as well as respect by that country of international humanitarian law.

— Having assessed the recipient country's attitude towards relevant principles established by international human rights instruments, including the human rights situation in that country, Member States shall:

(a) deny an export licence if there is a clear risk that the military technology or equipment to be exported might be used to commit or facilitate internal repression, serious acts of gender-based violence or serious acts of violence against women, children, or other serious violations of human rights;

(b) exercise special caution and vigilance in issuing licences, on a case-by-case basis and taking account of the nature of the military technology or equipment, to countries where serious violations of human rights have been established by the competent bodies of the United Nations, by the European Union or by the Council of Europe;

For these purposes, technology or equipment which might be used for internal repression includes, inter alia, technology or equipment where there is evidence of the use of that or similar technology or equipment for internal repression by the proposed end-user, or where there is reason to believe that the technology or equipment will be diverted from its stated end use or end-user and be used for internal repression. In line with Article 1, the nature of the technology or equipment shall be considered carefully, particularly if it is intended for internal security purposes. Internal repression includes, inter alia, torture and other cruel, inhuman and degrading treatment or punishment, summary or arbitrary executions, disappearances, arbitrary detentions, and other serious violations of human rights and fundamental freedoms as set out in relevant international human rights instruments, including the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights.

— Having assessed the recipient country's attitude towards relevant principles established by instruments of international humanitarian law and respect for international humanitarian law, Member States shall:

(c) deny an export licence if there is a clear risk that the military technology or equipment to be exported might be used to commit or facilitate serious violations of international humanitarian law, including against protected groups under international humanitarian law, such as women and children.

3. Criterion Three: Internal situation in the country of final destination, as a function of the existence of tensions or armed conflicts.

Member States shall deny an export licence for military technology or equipment which would provoke or prolong armed conflicts or aggravate existing tensions or armed conflicts within the country of final destination, without prejudice to the legitimate and lawful security and defence of that country.

4. Criterion Four: Preservation of regional peace, security and stability.

Member States shall deny an export licence if there is a clear risk that the intended recipient would use the military technology or equipment to be exported aggressively against another country or to assert by force a territorial claim. When considering these risks, Member States shall take into account inter alia:

(a) the existence or likelihood of armed conflict between the recipient and another country;

(b) a territorial claim which the recipient has in the past tried or threatened to pursue by means of force;

(c) the likelihood of the military technology or equipment being used other than for the legitimate and lawful national security and defence of the recipient country, or the exercise of the inherent right of self-defence of the recipient country in accordance with international law, enshrined in Article 51 of the Charter of the United Nations;

(d) the need not to affect adversely regional stability in any significant way.

5. Criterion Five: National security of the Member States and of territories whose external relations are the responsibility of a Member State, as well as that of friendly and allied countries.

Member States shall take into account:

(a) the potential effects of the military technology or equipment to be exported on their defence and security interests as well as those of other Member States, those of friendly and allied countries, without prejudice to the consideration of the criteria on respect for human rights and international humanitarian law as well as on regional peace, security and stability;

(b) the risk of use of the military technology or equipment concerned against their forces or those of Member States and those of friendly and allied countries.

6. Criterion Six: Behaviour of the buyer or recipient country with regard to the international community, as regards in particular its attitude to terrorism, the nature of its alliances and its respect for international law.

Member States shall take into account, inter alia, the record of the buyer or recipient country with regard to:

(a) its support for or encouragement of terrorism and international organised crime;

(b) its compliance with its international commitments, in particular those regarding the non-use of force, and with international humanitarian law;

(c) its commitment to non-proliferation and other areas of arms control and disarmament, in particular the signature, ratification and implementation of relevant arms control and disarmament conventions referred to in points (b) to (d) of Criterion One.

7. Criterion Seven: Existence of a risk that the military technology or equipment will be diverted within the recipient country or re-exported under undesirable conditions.

In assessing the impact on the recipient country of the military technology or equipment to be exported, and the risk that such technology or equipment might be diverted to an undesirable end-user or for an undesirable end use, the following shall be considered:

(a) the legitimate defence and domestic security interests of the recipient country, including any participation in United Nations or other peace-keeping activity;

(b) the technical capability of the recipient country to use and protect such technology or equipment;

(c) the capability of the recipient country to apply effective export controls, including where the military technology or equipment to be exported include or are goods to be incorporated into products for subsequent export by the recipient country;

(d) the risk of such technology or equipment being re-exported to undesirable destinations, and the record of the recipient country in respecting any re-export provision or consent prior to re-export which the exporting Member State considers appropriate to impose;

(e) the risk of such technology or equipment being diverted to terrorist organisations or to individual terrorists;

(f) the risk of reverse engineering or unintended technology transfer;

(g) the risk of such technology or equipment being used to circumvent restrictive measures adopted by the United Nations or by the European Union;

(h) the risk of aggravating conflict, violence, and illegal activities due to the specific nature of the technology and equipment to be exported, in particular with respect to the risk of diversion of small arms and light weapons.

8. Criterion Eight: Compatibility of the exports of the military technology or equipment with the technical and economic capacity of the country of final destination, taking into account the desirability that states should meet their legitimate security and defence needs with the least diversion of human and economic resources for armaments.

Member States shall take into account, in the light of information from relevant sources such as reports from the United Nations Development Programme, the World Bank, the International Monetary Fund and the Organisation for Economic Cooperation and Development, whether the proposed export would seriously hamper the sustainable development of the country of final destination. They shall consider in this context that country's relative levels of military and social expenditure, also taking into account any Union or bilateral aid.';

(2) Article 5 is replaced by the following:

'*Article 5*

Export licences shall be granted only on the basis of reliable prior knowledge of end use in the country of final destination. This will generally require a thoroughly checked end-user certificate or appropriate documentation and/or some form of official authorisation issued by the country of final destination. Member States may use other end-user monitoring tools, including requiring end-users to agree to specific verification mechanisms. When assessing applications for licences to export military technology or equipment for the purposes of production in third countries, Member States shall in particular take account of the potential use of the finished product in the country of production and of the risk that the finished product might be diverted or exported to an undesirable end-user.';

(3) Article 6 is replaced by the following:

'*Article 6*

Without prejudice to Regulation (EU) 2021/821 of the European Parliament and of the Council (*), the criteria set out in Article 2 of this Common Position and the consultation procedure provided for in Article 4 of this Common Position are also to apply to Member States in respect of dual-use goods and technology as specified in Annex I to Regulation (EU) 2021/821 where there are serious grounds for believing that the end-user of such goods and technology will be the armed forces or internal security forces or similar entities in the country concerned. References in this Common Position to military technology or equipment shall be understood to include such goods and technology.

(*) Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (OJ L 206, 11.6.2021, p. 1, ELI: http://data.europa.eu/eli/reg/2021/821/oj).';

(4) Article 7 is replaced by the following:

'*Article 7*

1. In order to maximise the effectiveness of this Common Position, Member States shall work within the framework of the Common Foreign and Security Policy (CFSP) to reinforce their cooperation and to promote their convergence in the field of exports of military technology and equipment, inter alia, by exchanging relevant information, including information on specific destinations and on denial notifications, arms export policies and, where appropriate, end-use monitoring, by consulting regarding their risk assessment, as well as by identifying possible measures to further increase convergence and to promote unity and coherence in Union external action.

2. In order to promote convergence and facilitate decision-making on exports of jointly funded and produced military equipment or technology, Member States participating in a joint defence project may use facilitating mechanisms to that effect. Member States participating in a joint defence project are encouraged to consult with each other on their risk assessment.';

(5) Article 15 is replaced by the following:

'*Article 15*

This Common Position shall be reviewed by 15 April 2030.'.

Article 2

This Decision shall enter into force on the date of its publication in the *Official Journal of the European Union*.

Done at Luxembourg, 14 April 2025.

For the Council

The President

K. KALLAS