



The European Union preaches peace and sells war: how Europe is arming murderous and oppressive regimes in the Middle East

Table of content

Introduction	3
Methodology	5
Chapter I - Lack of democratic oversight, weak legal regulations and expanding funding mechanisms .	6
1. The Common Position: Limits of a Binding Legal Instrument but Poorly Respected by States	7
1.1 The Common Position: a flawed legal instrument dependent on the discretion of the States:	8
A- Genesis of the Common Position	8
B- Adoption of a Common Position that is binding but not coercive.	9
C-Timid attempt by the European Parliament to reform the Common Position	11
1.2 Broad manoeuvre for the Member States in the interpretation of the Common Position and low harmonisation of data:	11
A- Free interpretation of the criteria by States	11
B- Poor harmonization of export data.....	12
C- A confidential refusal notification procedure with a marginal number of refusals	12
D- Rare consultations between States	13
E- At the national level, transparency and parliamentary control with variable geometry	14
2. European funding for the production and export of armaments without any democratic control	15
2.1 A European directive reducing export controls and increasing opacity	15
A- Easing administrative procedures through general licenses	15
B- A different application of the Directive by the States leading to an ineffective control	16
2.2 New funding for the arms industry without any control	17
A- Lack of effective parliamentary control over the EDF (European Defence Fund)	18
B- Lack of effective ethical monitoring and verification of the projects' conformity with international law	19
C- Very weak control over the implementation of the programme and the proceeds of research in Europe and elsewhere	20
D- Serious upstream and downstream transparency problems exacerbated by the use of "trade secrets"	22
Chapter II – Assessment of the conformity of European arms exports with the Common Position .	24
1. European states are breaking their own rules and making themselves responsible for human rights violations in the Middle East	25
A- Transgressions of European regulations by France, Europe's leading arms exporter to Middle Eastern countries	25
B- Germany: arms exports to the Middle East are growing despite the arrival of the three-coloured coalition in power	25
C- Italy: explosion of arms sales to Qatar and Egypt	26
D- Spain: corvettes and bombs sold to Saudi Arabia	27
2. Companies implicated in breaches of the EU Common Position benefit from European Defence Fund projects.....	27
A- Saudi Arabia: Belgian grenades are used against civilians in Saudi Arabia, the EU creates uncontrolled Ammunition Fund.....	28
B- Libya: an Austro-Emirati drone Schiebel, an actor of the Fund, involved in the Spotting a bombing that killed several people in 2016.....	29
C- Egypt/Saudi Arabia: Safran's French Patroller drone, financed by aEuropean programme, is of interest to the countries of the Middle East	29
D- Libya: Airbus, beneficiary of the Fund, tries to circumvent the embargo on Libya.....	30
Conclusion	31
Recommendations	32
Annexes: Exports to the Middle East by the Top Five Arms Companies	35

Cover photo: This handout picture released by the Egyptian Presidency on March 17, 2024 shows Egyptian President Abdel Fattah al-Sisi (R) meeting with European Commission President Ursula von der Leyen in capital Cairo. The EU chief and five European leaders visited cash-strapped Egypt on March 17 to announce a 7.4-billion-euro financial package focussed on boosting energy trade and stemming irregular migrant flows to the 27-member bloc.

© AFP PHOTO / HO / EGYPTIAN PRESIDENCY

Introduction

In every conflict in the Middle East, we are outraged by the presence of European weapons. Since the 1970s, European countries have been developing their arms exports to this region, which has led to transfers of equipment and know-how. According to SIPRI data, EU arms exports account for 24% of global arms sales. The EU is behind the United States (40%) but ahead of Russia over the 2018-2022 period (16%).

Countries of the Middle East are the main destination for European arms sales and therefore possess huge stocks of weapons necessary to launch a conflict, but also to be able to create their own arms industry. A vicious circle that has largely fostered conflicts in Libya, Iraq, Yemen and more recently in Israel and the Occupied Palestinian Territory. The trade has also played a major role in deepening repression in Saudi Arabia, Egypt, the United Arab Emirates and Algeria. The numerous civilian casualties have sparked anger and then the mobilization of civil society, which regularly calls on governments to stop these exports and to control them by national parliaments.

Until then, our organisations have focused mainly on the Member States, which are primarily responsible for the production and sale of armaments under Article 346 of the Treaty on the Functioning of the European Union¹. As security remained a national prerogative, the European level was neglected in view of the inadequacy of European governance in the field of defence. However, the Member States have been actively using it for several years to push their own agenda: Code of Conduct, then Common Position 2008/944/CFSP on arms exports², a Directive on intra-Community transfers,³ the European Defence Fund,⁴ etc. These mechanisms are on top of other international instruments and in fact support the ever-increasing exchanges between the arms manufacturers of the various Member States. They take the form of financial support for arms companies amounting to eight billion euros over the 2021-2027 period. Indeed, the manufacture of armaments, which is highly complex, is based more than ever on the interdependence between manufacturers. The European Commission has been capitalising on this interdependence since Brexit to increase cooperation between arms manufacturers. The states agree to cooperate, but only up to a point: European projects must not encroach too much on their sovereignty and national interests, commercial and economic interests in the first place. The fact remains that the idea of peace and the defence of human rights, which are the foundation of the European Union, is in full retreat. Thirty years earlier, at the end of the first Gulf War, the European Union had drawn up a code of conduct on arms exports...

Has this greater integration within the EU of issues related to arms transfers led to positive changes in terms of respect for international law and a reduction in the level of violence? What is the current trend in European arms production and exports to the Middle East? What are the consequences of this for the people of the Middle East and more particularly what is the impact of these transfers on the human rights situation?

The European Commission must carry out an ethical review of projects at mid-term. It is scheduled to take place in 2024. On the other hand, the European elections are looming in June 2024. It is therefore important to ask the European Union to take stock of its action and to ask the different candidates to take a position on the subject. To enlighten them, we are preparing this report addressed to the European executive and the European Members of Parliament, and which evaluates the European arms production and export policy and its consistency with the law that the States themselves have established: the Common Position on Arms Exports.

1. Article 346: "The provisions of the Treaties shall not preclude the following rules:

(a) no Member State shall be required to provide information the disclosure of which it considers to be contrary to the essential interests of its security,

(b) any Member State may take such measures as it deems necessary for the protection of its essential security interests and which relate to the production of or trade in arms, ammunition and war material; such measures must not adversely affect the conditions of competition in the internal market in respect of products not intended for specifically military purposes'.

2. <https://eur-lex.europa.eu/legal-content/FR/ALL/?uri=celex%3A32008E0944>

3. <https://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=CELEX:32009L0043&from=EN>

4. https://defence-industry-space.ec.europa.eu/eu-defence-industry/european-defence-fund-edf_en?prefLang=fr

In the first chapter of this report, we will assess the degree of transparency and cooperation that Member States should show in the application of the Common Position as well as in the co-financing of defence projects. Then, in the second chapter, we will provide an overview of the activities of the main arms exporting countries and companies and analyse the discrepancies between the texts and the practice, highlighting the direct and indirect responsibilities of their exports for serious violations committed in the countries of the Middle East region covered by this analysis. Finally, we will draw conclusions in terms of directly applicable recommendations.

We choose to focus on the transactions of the leading arms exporting countries in the EU: France, Germany, Italy, and Spain by analysing the impact of these exports on four main countries in the Middle East: Saudi Arabia, Egypt, Yemen and Libya, which are torn apart by conflict and ruled by harsh dictatorships.

Methodology

Following the work carried out over several years by FIDH to shed light on the involvement of certain European states in the supply of arms to repressive governments, such as Egypt, or to countries in conflict, such as the United Arab Emirates, Middle East and North Africa desk (MENA) continues its work in favour of far-reaching reforms in the sale of arms and the accountability of European states and the perpetrators of human rights violations. The media coverage of previous campaigns and the interest of organizations in the region in this topic were encouraging signs for the continuation of this work.

In this dynamic, following a workshop held in March 2023 with its member organizations from Saudi Arabia, Egypt, Libya, Algeria, and Yemen on European arms sales to their countries, FIDH has initiated this research to develop a broader vision covering the European level of arms sales to repressive or conflict-affected countries.

This report is the product of research conducted between March and November 2023 by the Observatoire des armements, FIDH and its member organisations from the MENA region.

The aim is to highlight the impact of the lack of rigorous application of the Common Position by States and transparent practice in the field of arms sales on human rights in Middle Eastern countries marked by armed conflict and severe repression. This report shows that with the ambition of making Europe a geopolitical power and a security actor at the international level, the European Union has built a model in which States and industrialists hold almost all the powers, and where, unlike Parliament, which has a very weak role. A financing mechanism for industrial cooperation has been gradually consolidated, in particular with the establishment of the European Defence Fund (2021) without the slightest guarantee of transparency and compliance with the criteria of the Common Position. Thanks to this legal and financial architecture, the big arms companies that take the lion's share of the Defence Fund, and thus benefit from taxpayers' money to strengthen their economic activities, have a great responsibility for conflicts and human rights violations in the Middle East.

This report is based on the analysis of the European Union's annual reports on arms exports; data on arms exports provided by SIPRI; news reviews and studies provided by Enaat⁵, analysis of European regulations, press articles and feedback from advocacy and documentation carried out by FIDH member and partner organisations.

5. <https://enaat.org/>

Chapter I: Lack of democratic oversight, weak legal regulation and expanding funding mechanisms

Several international instruments regulate how arms and surveillance equipment are exported. States parties to these instruments must ensure that they do not sell weapons or surveillance equipment if there is a risk that these materials and goods will be used to commit serious human rights violations. Failure by states to comply with these legal obligations can characterize the potential responsibility and complicity of governments and companies in the perpetration of armed conflict, human rights violations, and international crimes by law enforcement authorities and belligerents.

At the international level, the United Nations Arms Trade Treaty (ATT), adopted on 2 April 2013 and entered into force on 24 December 2014, is the first legally binding instrument to regulate the international trade in conventional arms. At the beginning of December 2019, it had 105 States Parties, including all EU members.

The Treaty regulates the international trade in conventional arms – from small arms and light weapons to battle tanks, fighter jets and warships. Its purpose is to regulate the legal trade in arms and to combat trafficking in such goods.

Under Article 6 §3, any ATT member state must not authorize “any transfer of conventional arms referred to in Article 2(1) or goods referred to in Articles 3 or 4 if it is aware, at the time of authorization, that such arms or property could be used to commit genocide, crimes against humanity, grave breaches of the 1949 Geneva Conventions, attacks directed against civilians or civilian objects and protected as such, or other war crimes as defined by international agreements to which it is a party.” Article 7 of the treaty also requires states to conduct an assessment of all exports of conventional arms, ammunition or related parts and components to determine whether such equipment is likely to be used to commit serious violations of international human rights law or international humanitarian law, or to commit or facilitate any act constituting an offence under the relevant international conventions and protocols terrorism or transnational organized crime to which the exporting State is a party.

“The fact that they are not a party to the treaty does not mean that these countries have no obligations to transfer arms responsibly. These derive either from the Charter of the United Nations or from general international law, with focus on three of them: compliance with embargoes decreed by the Security Council; the principle of non-intervention and the supply of arms to non-state actors; and the duty not to support or assist in the commission of serious violations of international law.”⁶

In addition to the ATT, many European states are members of the Wassenaar Arrangement (1996). This arrangement provides a multilateral forum for the control of exports of conventional arms and war materiel and associated dual-use goods and technologies. Today, it comprises forty-two states.

While export controls remain in the hands of states, the objective of this arrangement is to promote “transparency and greater accountability in transfers of arms and dual-use goods in order to prevent destabilizing accumulations”, i.e. to prevent transfers of dual-use arms and technology from undermining international stability. The Wassenaar States have agreed to control, each in accordance with its own national laws, exports of items included in the Arrangement’s dual-use list, and to report in a transparent manner exports of sensitive dual-use items and refusals to transfer dual-use items in general. Member States are also required to consult and exchange information in their possession on transfers of highly sensitive dual-use goods and technology. Participating States must report on their arms transfers, as well as transfers/refusals of certain dual-use goods and technologies to destinations outside the Agreement, on a semi-annual basis.

With regard to dual-use items, including surveillance and cyber-surveillance technologies, at EU level, the review and recast of the 2009 Regulation, finally adopted in June 2021, introduces a wide range of changes to the EU’s dual-use export control system, and among them a new “enforcement coordination mechanism”; new controls on exports of cyber-surveillance goods; a new public report for dual-use exports; and an expanded mechanism to control unlisted goods – including emerging technologies.

6. <https://www.grip.org/traite-sur-le-commerce-des-armes-les-obligations-des-etats-exportateurs-non-parties/>

In addition, under international human rights law, states have an obligation to take all necessary measures to ensure that human rights are respected by all entities under their jurisdiction, including when operating beyond their territorial borders. The UN Guiding Principles on Business and Human Rights (“UN Guiding Principles”) also state that states should encourage and, where appropriate, require effective human rights due diligence. The authorities must take particularly stringent measures to prevent human rights abuses by companies. The closer a company is to the state, or the more dependent it is on statutory authority or taxpayer support, the more crucial the approach taken by the state to ensure that the company respects human rights. These obligations also derive from the European Convention on Human Rights⁷.

At the European level, too, a directive on corporate sustainability due diligence⁸, which aims to establish an obligation for companies to respect human rights and the environment throughout global value chains, is struggling to be adopted. While in December 2023, a trilogue agreement between the European Parliament, the European Commission and the Council on the directive was reached⁹, this directive which should impose on companies the obligation to monitor their negative impact on human rights and on the environment, in particular with regard to child labour, slavery, labour exploitation, pollution, deforestation, excessive water consumption or damage to ecosystems, was finally rejected on 26 February 2024, for lack of a qualified majority and following a reversal in the positions of many States including Germany, France, Italy, Hungary¹⁰...

In addition to these various instruments, the action of the States of the European Union in this area is framed by Common Position 2008/944/CFSP of the Council of the European Union, which has in common with the Arms Trade Treaty (ATT) the prohibition of the authorisation of exports of military equipment if there is a preponderant or clear risk that it will be used to commit, or facilitate serious violations of international humanitarian law and human rights. This objective is far from being achieved in the absence of rigorous application, transparent practice, and an external sanctioning body.

In addition, with the ambition to make Europe “a geopolitical power and a security actor at the international level. It is a question of strengthening the security of European citizens and being able to act in the face of crises that erupt, particularly in the EU’s neighbourhood”,¹¹ a financing mechanism for industrial cooperation has been consolidated, in particular with the establishment of the European Defence Fund (2021) without the slightest guarantee of transparency and compliance with the criteria of the Common Position.

1. The Common Position: Limits of a Legal Instrument that is binding but little respected by States:

Following the Gulf War, EU Member States put in place a Code of Conduct on Arms Exports, which was strengthened and updated through a Common Position. An ambiguous text that provided a platform for states to exchange their data on exports and limit unfair competition; their discussions are closed to NGOs and citizens. The few “restrictions” on arms sales are more to be attributed to the mobilization of civil society than to a virtuous application of this text by States. We are seeing a major increase in arms exports to the four countries studied. This increase particularly concerns transactions to destinations involved in the war in Yemen (Saudi Arabia, United Arab Emirates, Qatar) or engaged in a massive repression of its population (Egypt). The most emblematic example is the case of the three-coloured coalition in Germany, which came to power in 2021, several of whose parties were in favour of better control of arms sales and which finally continues its arms exports to Middle Eastern countries. This points to all the limits of an effort at transparency and debate that is not coupled with a clear agenda for restricting arms exports implemented at the national level.

7. See in particular the interpretation of Articles 2 and 8 provided by the European Court of Human Rights with regard to the obligations of States to protect human rights on their territory in relation to industrial activities. See, for example, D. Augenstein, State responsibilities to Regulate and Adjudicate Corporate Activities under the European Convention of Human Rights, April 2011.

8. <https://www.fidh.org/fr/themes/entreprises-droits-humains-et-environnement/fidh-recommandations-trilogue-csddd>

9. <https://www.europarl.europa.eu/news/fr/press-room/20231205IPR15689/accord-sur-les-regles-en-matiere-de-devoir-de-vigilance-des-entreprises>

10. <https://www.novethic.fr/non-classe/devoir-de-vigilance-europeen-blocage>

11. https://france.representation.ec.europa.eu/informations/leurope-de-la-defense-ca-existe-et-ca-marche-2022-07-25_fr

1.1 The Common Position: a flawed legal instrument dependent on the discretion of States:

A - Genesis of the Common Position:

The implementation of European regulations on arms exports is first and foremost linked to the rise of cooperation in the defence industry at the European level. This cooperation between countries is primarily at the heart of arms manufacturing. Indeed, weapons systems are composed of parts and components of different origins, depending on the competences of the different states. As a result, companies import a significant portion of the equipment used to design new weapons. This explains why, as early as 1965, the European Parliament tried to address issues relating to arms transfers¹². This industrial cooperation accelerated in the second half of the 1980s due to the reduction of defence budgets and the constant increase in armaments costs¹³. States are joining forces to implement major industrial programmes such as the Eurofighter jet, which has come to fruition. On the other hand, others are struggling to see the light of day, such as the drone and European tank projects. Large conglomerates are being created, products of the restructuring of the defence market, the assembly of skills between countries but also political choices: MBDA (France, United Kingdom, Italy, Germany), Airbus (France, Germany, Spain, Netherlands) or KMW+Nexter (now KNDS) for example.

In this context, a European regulation on arms exports appears to be a means of "supervising the activities of an integrated and more competitive European defence industry at the service of the European market that could not be controlled at government level by one of the Member States, precisely to the extent that the latter would have lost 'ownership' over its defence industry and its assets."¹⁴

Of course, defence policy is a pillar of the EU in itself that is first and foremost a matter of cooperation between states. It does not concern the production of armaments or the common export controls left to the Member States under the Maastricht Treaty. It is considered that the arms trade must obey the essential security interests of the Member States, in line with their sovereign prerogatives. However, the idea of a code of conduct on arms transfers shows the desire to provide a first European legal framework aimed at limiting competition between European states on international markets, which is harmful in terms of the distribution of armaments and the cost of sales. The organisation of regular meetings on the subject of arms control within the Council of the European Union has made it possible to strengthen the points of agreement between competing States, paving the way for the enlargement of the European internal market to include the defence sector. In other words, the States want to create an instrument to regulate this trade, and not a text that aims to considerably reduce the number of weapons in circulation and the level of violence that this accompanies...

At the same time, there are concerns about the human consequences of arms sales, which is an additional argument in favour of European regulation. During the Gulf War, the French and British armies found themselves facing Saddam Hussein's army, which they had equipped shortly before. In Western Europe, the debate is growing about the need to control weapons, to prevent them from falling into the hands of dictatorships or fuelling wars¹⁵. In France, at that time, a collective of associations was set up: Agir Ici, Cimade, Observatoire des armements which demanded the establishment of a parliamentary commission responsible for giving its opinion for all transactions over 20 million francs¹⁶ and the imposition of European directives to control the arms trade. At the same time, debate and citizen mobilization began in the United Kingdom. It continued at the end of the 1990s in the area of small arms control following the indignation provoked by the presence of European weapons in the massacres in Angola, Sierra Leone and Rwanda. States will respond to criticism from civil society by infusing new language into these different legal texts. These two contradictory dynamics will result in a text whose content and scope undoubtedly lean in favour of the interests of industrialists and States.

In 1991, the European Council adopted eight principles to regulate arms exports: (1) compliance by the recipient country with international commitments; (2) respect for human rights; (3) the internal

12. Patrice Bouveret, Belkacem Elomari, 1995 report, Observatory of Arms Transfers, p.165

13. Pierre de Vestel, "The Defence Industry in Europe: Between Restructuring, Internationalization and Integration", in Patrice Bouveret, Belkacem Elomari, Rapport 1995, Observatoire des transfert d'armement, p.184

14. Bronwyn Brady, "The Regulation of the Arms Trade at EU Level", in Patrice Bouveret, Belkacem Elomari, 1995 Report, Observatory of Arms Transfers, p.167

15. Bernard Adam (dir.), *European Union and arms exports*, Les Dossiers du Grip, 1995, p.20

16. Document from the association Agir Ici.

situation in the country of final destination; (4) the preservation of regional peace, security and stability; (5) the national security of Member States and allied or friendly States; (6) the buyer country's behaviour towards the international community and in particular its attitude towards terrorism; (7) the existence of a risk of diversion of the equipment within the purchasing country or of re-export under undesirable conditions and, finally, (8) the compatibility of arms exports with the technical and economic capacity of the recipient country.

A group of experts representing each State in the Council of Ministers (COARM - Working Party on Conventional Arms Exports) has also been created, a sub-group of the Council dedicated to conventional arms exports.¹⁷

In 1992, after the Maastricht Summit, the twelve states¹⁸ indicated that joint action was possible as soon as the treaty entered into force in *"the economic aspects of security, in particular the control of the transfer of military technology to third countries and the control of arms exports."*¹⁹ But this initiative was already contradictory to their practice, since after the Gulf War, several countries, including Saudi Arabia, rearmed with European equipment²⁰.

In 1997, the coming to power of the British Labour Party helped to revive discussions on a European code of conduct regulating arms exports. The United Kingdom took over the presidency of the EU the following year. A campaign titled *"exports of security and police equipment, military transfers, let's impose the criteria"* led by a dozen associations is back in France²¹. The principles laid down by the European Council in 1991 became the criteria for a Code of Conduct to be adopted in 1998. While the drafting of an Arms Trade Treaty was under discussion at the UN, the Code of Conduct became a Common Position in 2008, the application of which is binding on States, and which is reviewed every five years.

B- Adoption of a binding but non-coercive Common Position:

The European Council adopted Common Position 2008/944/CFSP, which lays down common rules governing the control of exports of military technology and equipment, and replaced a previous political agreement, the EU Code of Conduct on Arms Exports (1998)... The aim of the Common Position is to further converge Member States' policies on arms export controls, with this type of export ultimately remaining an area of national competence, in accordance with Article 346 of the Treaty on the Functioning of the EU.²² The Common Position defines the range of controlled goods in a common military equipment list that identifies 22 categories of weapons, ammunition, equipment and military technology. This list is regularly updated and does not include dual-use items.

On the surface, the Common Position promises a regulatory will on the part of the European Union, while counting on the cooperation of the Member States. It sets out eight common criteria (minimum standards) to be taken into account by Member States when considering applications for authorisations for the export of military technology and equipment, brokering authorisations, authorisations for transit operations and authorisations for intangible transfers of technology. They therefore undertake to:

- 1) Respect their international commitments, i.e. the United Nations Disarmament and Non-Proliferation Treaties, the European treaties but also embargoes or boycotts and the Wassenaar Arrangement [13][13]The Wassenaar Arrangement on export controls... (criterion 1);
- Ensure that the recipient country respects human rights and therefore that imported armaments cannot in any way participate in a violation of these rights (criterion 2);
- Ensure that the domestic situation in the country of final destination is compatible with an import of arms, that there are no major tensions or significant risks of armed conflict or civil war that such importation could trigger and lead to the destabilization of the country (criterion 3);
- Verify that such export will not harm the peace, security and stability of the region (criterion 4);
- Verify that such export will not harm the national security of Member States and territories for which the external relations of a Member State are the responsibility, as well as that of friendly or allied countries (criterion 5);

17. https://www.grip.org/wp-content/uploads/2021/05/Rapport_2021-1-complet-final.pdf

18. Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain and United Kingdom

19. Bernard Adam (ed.), op.cit., p.84

20. Ibid., p.16

21. https://www.obsarm.info/IMG/pdf/lettre_transferts_13_compressed.pdf

22. [https://www.europarl.europa.eu/RegData/etudes/ATAG/2018/628317/EPRS_ATA\(2018\)628317_FR.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2018/628317/EPRS_ATA(2018)628317_FR.pdf)

Ascertain the behaviour of the buyer country towards the international community, including its attitude towards terrorism, the nature of its alliances and respect for international law (criterion 6); Ensure that there is no risk of diversion of equipment within the purchasing country or re-export of equipment under undesirable conditions (criterion 7); Verify the compatibility of arms exports with the technical and economic capacity of the recipient country. The aim here is not only to ensure the country's solvency but also the economic impact of such an acquisition (criterion 8).

The Common Position clarifies that the existence of these criteria does not affect the right of Member States to introduce more restrictive national standards.

From a practical point of view, the Common Position provides that a European State can only authorise an export to a third country only if that third country complies with the eight criteria. European countries therefore undertake to ensure, before any export, that this is the case and, *a priori*, failure to comply with one of the criteria must lead to a ban on exports, but there is no provision in the Common Position for sanctions for Member States that do not comply with the Common Position.

In addition, the Common Position provides for provisions to encourage Member States to exercise their competences in a transparent and coordinated manner. States are thus obliged to produce annual reports detailing their exports, before the Union itself draws up a consolidated report.

However, this text is careful not to encroach on the prerogatives of States that retain discretionary power in the assessment of exports. The only exception is the obligation to notify the European Council of export refusals in order to facilitate the convergence of practices, according to Article 4 of the Common Position²³. Export refusals refer to applications for export permits submitted by manufacturers that are refused by States. When a Member State of the European Union refuses to export arms to a country, it must notify its partners in the European Union. If a country does intend to deliver arms to the recipient in question, it must first consult its partners and provide "detailed arguments" to those who have issued a refusal.

Moreover, few Member States have translated the rules of the Common Position into their legislation, as transposition is not mandatory for this text, unlike a directive. When transposed, it allows civil society to bring actions before national judges but not before the Court of Justice of the European Union. To date, only two countries have transposed it into domestic law: the United Kingdom and Belgium²⁴. In 2019, the *Campaign Against Arms Trade* association filed a case with the British Court of Justice to obtain a suspension of arms exports to Saudi Arabia, which remained only temporary. The association's claims were definitively dismissed in June 2023 by a High Court judgment²⁵. And since then, the United Kingdom has left the European Union... In Belgium, developments are more positive. In 2019, 2020 and 2021, the Belgian Council of State cancelled export licenses to Saudi Arabia, which contributed to a decrease in the total volume of transactions in the last two years and a decrease in sales to Riyadh in 2022²⁶.

The limits of the Common Position have been pointed out by the European Parliament, which "notes the lack of convergence of national arms export policies and decision-making processes in view of the growing importance of the EU level in arms production as well as the stated ambitions and plans to develop it further; notes that the lack of convergence on domestic arms exports risks creating additional market distortions and related strategic planning barriers for the companies concerned and the armed forces, and that a gradual convergence of national policies and decision-making processes is needed regarding arms exports; reiterates how essential it is for Member States to be involved in this process; deplores the current divergences between national arms export policies and Member States' decision-making processes; calls on the Council to continue its efforts to promote convergence of policies and decision-making in the field of arms exports"²⁷.

23. <https://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=CELEX:02008E0944-20190917&from=ES>

24. *ibid*

25. <https://caat.org.uk/news/arms-trade-campaigners-defiant-after-disappointing-high-court-judgment-over-saudi-arabia-arms-sales/>

26. <https://www.amnesty.be/campagne/pour-controle-ventes-armes/observatoire-armes-wallonnes>

27. [European Parliament resolution](#) of 17 September 2020 on arms exports: implementation of Common Position 2008/944/CFSP (2020/2003(INI))

C- Timid attempt by the European Parliament to reform the Common Position:

Since the last vote on a resolution in 2020, the European Parliament has remained relatively sluggish on the strengthening of the Common Position.

This resolution of the European Parliament works for more coordination and exchange around data on arms exports. The resolution calls for the establishment of an EU-wide monitoring and control mechanism, without really detailing how it will be done. It stresses, with much euphemism, that Directive 2009/43 on intra-Community transfers *'is not intended to achieve the most common standards for the control of arms exports to third countries while facilitating transfers within the European arms market'* while acknowledging the need to strengthen the European defence industrial and technological base. The second, however, is a consequence of the first. But above all, the resolution calls for more communication between states within the Council of the EU, such as peer review without proposing to include the European Parliament or civil society in these exchanges. The proposal does not address the issue of intellectual property in the projects of the European Defence Fund, a European Union programme designed to finance research and development of industrial programmes in the field of defence, nor the need for regular monitoring of its application, nor does it lay down binding standards in order to speed up convergence between States to ensure compliance with the Common Position.

The MEP who drafted this resolution has spurred another initiative. A draft regulation drawn up by the Green group in the European Parliament, presented to NGOs at the end of 2021, was part of the same logic: to improve coordination between member states in the field of arms export control through the exchange of information and by drawing up guidelines. However, the transparency proposals were still limited by the prohibition on the disclosure of information deemed to be contrary to essential security interests, a term with a very elastic meaning. In the formula then under development, there were few constraints on the States that had the final say on arms exports.

However, a minimum set of obligations is needed to bring them together. Parliament must be given a supervisory role over the licences granted by the Member States and hear the Council and the Commission to this effect. Problematically, the environmentalist proposal introduced a general licence for exports to certain allies such as the United States, the United Kingdom or Switzerland, even though these countries export, in particular, a lot of equipment to the Middle East. Following the entry of the Greens into the German government at the end of 2021 and the war in Ukraine, the environmental group abandoned its project.

1.2 Broad manoeuvre for the Member States in the interpretation of the Common Position and low harmonisation of data:

"With such rules, one might be tempted to think that transfers of military equipment are effectively controlled at EU level. To do so would be to ignore the fact that European law and international law do not always go hand in hand with the practice of States. Although they impose obligations on States that are party to them, neither the Common Position nor the ATT provides for sanction mechanisms against those who do not comply with the texts. The fulfilment of the eight criteria is thus left to the discretion of each Member State, without referring potential cases to the Court of Justice of the EU (CJEU)."²⁸

A. Free interpretation of the criteria by States:

The aim of the Common Position is to strengthen the convergence of States in the field of arms exports. By convergence, we mean the harmonisation of export criteria by the Member States, making it possible, for example, to prevent countries from delivering arms to certain destinations while the rest of the Union disapproves of it. To this end, the various States are required to assess applications for arms export licences on a case-by-case basis according to the various criteria set out in the Common Position (Article 1). Convergence, however, is a difficult objective since the Member States are free to interpret the criteria of the Common Position and no system of control and sanctions had been set up.

On the other hand, this notion is perceived in a contradictory way according to civil society and States. For civil society, respect for human rights and peacekeeping must take precedence over geostrategic and economic considerations, while for states, European regulations are mainly aimed at limiting

28. https://www.grip.org/wp-content/uploads/2021/05/Rapport_2021-1-complet-final.pdf

competition between them²⁹. The European framework remains subject to the will of the Member States, which use it to reorganise and develop their arms exports. NGOs argue in favour of top-down convergence of export policies based on strict compliance and transparency in the application of the EU Common Position, while most EU states have an interest in ensuring that this convergence is sufficient to prevent unfair competition and therefore without such convergence leading to limiting their ability to export to third countries.

B - Poor harmonization of export data:

The Code of Conduct has improved transparency as member States are required to report their data on arms exports to the Council of the European Union, which publishes a consolidated annual report³⁰. An online database was created in 2020³¹. It shows the number and amount of export licences granted by the different countries, broken down by the categories of equipment in the European Union and the countries of destination. However, the data are published very late. The report released in February 2023 covers export records from 2021.

On the other hand, the transparency exercise is incomplete, the data does not seem to us to be usable as such for various reasons. On the one hand, the information recorded mainly relates to licenses that are issued by states to enable companies to carry out their transactions. However, these licences are granted well in advance of the actual transactions and generally have only a remote relationship with what is ultimately exported. Indeed, it is often the case that a negotiation does not succeed for commercial or political reasons. It is therefore important to have data on order intake and deliveries that describe a reality closer to the final stage of the export process. We are a long way from that. On the other hand, according to Hannah Neumann's parliamentary report (2020) on the implementation of the Common Position³², Member States use different information to assess licences, which complicates any comparison effort.

Some states provide information on exports, but not all of the EU's largest exporting countries. According to Hannah Neumann, around a fifth of the states did not provide full data in the 20th and 21st annual reports (such as Belgium, Cyprus, Germany or Greece), especially France which reports aggregate data on real exports and seems to artificially inflate the calculation of licences. Germany, on the other hand, does not provide data on actual arms exports. The European Union's online database therefore only allows for comparisons of licenses and not of actual exports.

Finally, the information provided does not give details of the equipment covered by the export authorisations and the quantities of goods concerned. Only the broad categories of armaments resulting from the EU's Common Military List are referenced.

After 15 years, EU states have failed to harmonise their data on arms exports, showing a lack of willingness to comply with a more human rights-respecting European framework. Member States must be required to be transparent in order for the European report to aggregate all the necessary data (licences, order intake, exports, details of equipment, quantities, final recipient, end user). Similarly, the latter should not be published more than six months after the end of the "balance sheet" for the year of exports.

We can therefore only start from the scant usable data in the European report and then supplement it with other sources such as the SIPRI database in order to draw conclusions on the respect of the Common Position by the Member States of the European Union, which we will do in a second phase.

C- A confidential refusal notification procedure with a marginal number of refusals:

The Common Position, a flagship measure designed to strengthen convergence, creates a procedure for notifying refusals. According to Article 4 of the Common Position, an EU member cannot fulfil an order that has been refused by another state without first consulting it. However, it is difficult to know the content of these discussions, due to a lack of transparency on the activities of the Council of the EU and a lack of oversight by MEPs. This opacity is enshrined in Article 4 of the Common Position.

29. <https://vlaamsvredesinstituut.eu/wp-content/uploads/2019/03/Towards-Europeanized.pdf>

30. [https://eur-lex.europa.eu/legal-content/FR/TXT/HTML/?uri=CELEX:52023XG0216\(01\)#ntr11C_2023059FR.01000101-E0011](https://eur-lex.europa.eu/legal-content/FR/TXT/HTML/?uri=CELEX:52023XG0216(01)#ntr11C_2023059FR.01000101-E0011)

31. https://www.eeas.europa.eu/eeas/arms-exports-control-launch-online-database-increasing-transparency-eu-arms-exports_en

32. https://www.europarl.europa.eu/doceo/document/A-9-2020-0137_FR.html

As a result, the scant data published by the European Union on notifications of refusal are not very detailed. By referring to the export database³³, we have access to aggregated data on the number of refusal notifications issued by all EU countries broken down according to the categories of the EU military equipment list, but there are no details on the practice of each of the Member States.

We can see that the number of export refusals for all destinations reached its lowest level in 2021 (216 notifications in 2019, 203 in 2020 and 216 in 2021) compared to more than 400 in 2015 and 2014. The figure of 216 notifications of refusal in 2021 must be compared with the 31,875 export authorisations granted in the same year. This represents 0.7% of this total. Of course, this does not mean that these export refusals do not have a wider effect (manufacturers can refrain from supplying equipment if they know that a particular destination is prohibited), but the disproportion remains flagrant. At the level of Middle Eastern countries, based on available data, the United Arab Emirates recorded 33 export refusals in 2021, a figure that has been steadily increasing slightly since 2013. Five export notifications were issued for applications concerning Saudi Arabia in 2021, the lowest figure in 10 years. For Egypt in 2021, we also have five denial notifications, again at its highest level. Three notifications were registered for Iraq. Libya has one notification for 2021 and Algeria zero. We should therefore have details of the refusal notifications broken down by the different exporting countries, as well as precise information on the consequences of these notifications: did they lead to a change in the contract or to the abandonment of the sale?

Faced with this opacity, we need to rely on data other than that provided by the EU to ask more precise questions about notifications of refusals, such as those from national export reports or analysis by NGO partners in other countries. In 2021, Amsterdam blocked two component transfers to France for missiles destined for Abu Dhabi, as the Dutch government's online database tells us. There is no mention of this refusal in the French report dated 2022. According to the document sent to the secretariat of the Arms Trade Treaty, France did not deliver any missiles to the United Arab Emirates in 2021. However, this report indicates that France has issued 23 licenses of the ML4 category including missiles to the Emirates.³⁴ It is difficult to know if missiles have been delivered or not? Other examples of French orders have been blocked by Amsterdam: one in 2010 whose final recipient was Pakistan, another in 2018 to China.³⁵ There is no mechanism within the European Union for civil society to "escalate" this type of information, to "verify" it and to discuss it with the Council of the EU. An annual event is organized by COARM with civil society, but it is too limited to have in-depth exchanges.

Worse, some states are apparently managing to circumvent the procedure for notifying refusals. In 2013, Berlin endorsed an order for tanks from Indonesia after a refusal by the Netherlands, a move made easier by the fact that no licence application had originally been submitted by Dutch manufacturers.

D- Rare consultations between States:

The European Arms Export Report provides summary data on consultations, such as the number of consultations initiated and received by states if they wish to export military equipment to a country that has already been refused export. In 2021, according to the latest European report, the three EU countries that start the most consultations are the Czech Republic (12), the Netherlands (10) and Hungary (8). Four States abstained from referring this procedure in 2021: France, Greece, Ireland, Slovenia³⁶. The destinations that are the subject of the most consultations are, far ahead, Pakistan (17), followed by Egypt (5), Morocco (5) and the United Arab Emirates (5). We can conclude from these sparse data that the use of this procedure is residual, a fortiori for the major exporting countries of the EU (France, Germany, United Kingdom, Italy).

33. <https://webgate.ec.europa.eu/eeasqap/sense/app/75fd8e6e-68ac-42dd-a078-f616633118bb/sheet/7fc5dd59-4b93-4dde-9f19-49da4d37a3c3/state/analysis>

34. <https://www.obsarm.info/spip.php?article407>

35. <https://www.obsarm.info/spip.php?article353>

36. [https://eur-lex.europa.eu/legal-content/FR/TXT/HTML/?uri=CELEX:52023XG0216\(01\)#ntr10C_2023059FR.01000101-E0010](https://eur-lex.europa.eu/legal-content/FR/TXT/HTML/?uri=CELEX:52023XG0216(01)#ntr10C_2023059FR.01000101-E0010)

National reports, on the other hand, generally contain more information, which should prompt the European Union to improve its annual report. Following the adoption of the Code of Conduct, Member States started publishing an annual report on exports to their own Parliament and public opinion as early as 1999 or 2000. While Spain, Italy and the Netherlands have increased the accuracy of published data over the years, this is not the case for France. Paris does not include crucial information such as the precise type of military equipment and the quantities, as is the case particularly for data available in the Dutch, Spanish and Italian reports. In the context of COARM meetings between NGOs and representatives of Member States, the lack of transparency is regularly discussed without any significant developments. Indeed, COARM meetings remain confidential. On the other hand, there is the question not only of transparency but also of control over compliance with the Common Position.

Indeed, when we talk about arms export controls, it is necessary to mention the authority in charge of this control, because the objectives of the latter may differ. State executive control is particularly strong at the administrative level, but they are judge and jury. Being at the same time in charge of the implementation of exports, they generally promote state and commercial interests at the expense of human rights and peacekeeping. Parliamentarians are not in charge of arms sales, so they can more easily play the role of independent third parties to monitor the actions of States, including compliance with the Common Position. Finally, in order for oversight to be more democratic, it is necessary to create a place for civil society, which plays the role of whistleblower, to respond to its concerns. It is therefore parliamentary and democratic control that must be strengthened if the common position is to be better applied.

Germany, the Netherlands, and Sweden have set up a role for Parliament in the control of arms exports³⁷, France must set up an evaluation commission but without specific access to contracts classified as "defence secret".³⁸ At the time of writing this report, its implementation is already several months behind schedule. Is this a blockage of the executive? Italian and Spanish parliamentarians do not have specific prerogatives in terms of export monitoring³⁹.

At the European level, on the other hand, Members of the European Parliament are excluded from monitoring the activities of the second pillar, which officially falls under the sovereignty of the Member States. They draft foreign and defence policy resolutions, some of which address the consequences of arms exports. On several occasions in recent years, the European Parliament has spoken out against the export and maintenance of equipment to members of the Saudi-led coalition⁴⁰. But these resolutions have only a declarative scope, they carry little weight in the face of the decisions of each State and those taken collectively by the European Council of Ministers. A thorough reform of the system is necessary to ensure that the Commission and the Member States do not monopolize all the prerogatives in this area. It is necessary to set up a supervisory authority attached to the European Parliament responsible for examining the export licences of States in the light of the EU Common Position, notifications of refusals, and which is able to define, in conjunction with the European executive bodies, guidelines or red lines applicable to all States as is the case for embargo measures.

37. <https://www.obsarm.info/spip.php?article353>

38. <https://www.obsarm.info/spip.php?article564>

39. <https://www.es.amnesty.org/en-que-estamos/espana/armas/>; <https://www.es.amnesty.org/en-que-estamos/blog/historia/articulo/la-nueva-ley-de-secretos-oficiales-una-oportunidad-de-acabar-con-los-secretos-que-matan/>

40. https://www.europarl.europa.eu/doceo/document/TA-9-2021-0053_FR.pdf;
https://www.europarl.europa.eu/doceo/document/TA-8-2018-0383_FR.html;
<https://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=CELEX:52022IP0408>;
https://www.europarl.europa.eu/doceo/document/TA-8-2016-0066_FR.html;
https://www.europarl.europa.eu/doceo/document/TA-8-2017-0273_FR.html

The case of Yemen: a very limited attempt at convergence:

Here again, we must rely on press articles and NGO reports to extend the analysis in view of the incompleteness of the data provided by the Member States. If we see a lower number of denial notifications for Saudi Arabia and the United Arab Emirates in 2021, it is likely due to the war in Yemen. Indeed, an unusual form of convergence emerged during this war. The Netherlands, Sweden, Italy and, to a very specific extent, Germany have complied with some restrictions with regard to Saudi Arabia and the United Arab Emirates (details in the export panorama). But France and Spain have refused to join these few efforts to limit arms sales, even trying to torpedo them by advancing industrial interests. For German parliamentarians, Paris has been seen as a bottleneck preventing any progress in restricting arms sales, as evidenced recently by France's willingness to take advantage of German restrictions to try to sell fighter jets to Riyadh.

On the other hand, the application of the European text varies according to the destination. Despite pressure from associations and parliamentarians, Berlin has continued transfers with Egypt and the Emirates in recent years. They are still important in 2022. As for Amsterdam, it has apparently refused a number of applications for licenses to Riyadh and Abu Dhabi but remains just as conciliatory with Egypt. It should be recalled that in the aftermath of the Rabaa massacre, the Council of the European Union issued Conclusions on the human rights situation in Egypt, in which the Member States unanimously decided to suspend the export to Egypt of any equipment that could be used for internal repression. A suspension that has been violated by several European states.

The criteria for assessing export applications seem to be based more on a logic of media response than on a case-by-case assessment of the criteria of the Common Position. We must give the impression that we are responding to a public demand rather than solving the fundamental problem. States apply the Common Position only when they are compelled by their opinion and their Parliament – that is to say, in very rare cases – and in a very partial way.

2. European funding for the production and export of armaments without any democratic control:

The Code of Conduct and the Common Position have not reversed the logic of unbridled export by the Member States. On the contrary, they have provided a necessary legal framework to facilitate their partnerships in the field of arms design and export. These texts lay the groundwork for the construction of European autonomy in the field of armaments and for the strengthening of the capacities of industrialists. These political choices were confirmed in the 2000s. Europe wants to build its own defence policy to respond to the war on terror and counter its rivals (China, United States). The Lisbon Treaty laid the foundations for stronger cooperation between “*member states that meet higher standards of military capabilities*” and agree to engage⁴¹. A desire that became a reality in the 2010s. For more than ten years, the European Commission and the Member States have been trying to develop cooperation between the continent's arms manufacturers in order to facilitate their cooperation. Above all, it seeks to develop their “competitiveness”, i.e. to make it easier for them to export abroad. A European directive and financing mechanisms are thus mobilized.

2.1 A European directive reducing export controls and increasing opacity:

A- Easing administrative procedures through general licences:

Since the end of the 2000s, European industrialists have been encouraged by the establishment of a more favourable legal framework. At the instigation of the European Commission, a reform began in 2009 with two directives to be transposed which aim to open up the defence market in Europe. The first directive on defence procurement does not specifically concern exports⁴². It is the second, simplifying

41. Lucas Da Silva, “European Defence: Chimera or Reality?”, Paris, L'Harmattan, 2022, p.37

42. <https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=celex%3A32009L0081>

the conditions for transfers of defence-related products, that has a direct impact on export controls⁴³. In theory, states retain control over exports to non-EU destinations: arms companies still have to apply for prior authorisations before they can transfer the goods. However, the directive lifts the obligation to apply for the export of war material within the European Union. Manufacturers just have to apply for a general, global or individual licence, a kind of permit that then allows them to freely multiply delivery operations to a particular recipient or concerning a specific material. Article 4 of the Directive also provides for various situations in which a licence is not required: etc. In the case of a transfer of non-“sensitive” military components, it is also possible to trade freely within the EU under certain conditions. The aim of this directive is to harmonise the system of export authorisations of the 27 Member States and to promote trade between arms manufacturers.

The reason for this is because military equipment is the product of components from different EU countries. On the other hand, the Commission’s objective is to increase industrial cooperation between Member States, even if this project comes up against the contradictory desire to preserve the national armaments industries.

B- A different application of the Directive by States leading to ineffective control:

The reform is being implemented differently in different countries. It should be noted that some countries, such as the United Kingdom and Germany, offered open licenses before the reform, allowing manufacturers to transfer military equipment freely under certain conditions. For the other EU members, this new regime has effectively lowered the level of controls for their exports to the European Union. The worst situation is embodied by France, which did not have such a system before the reform, and which took the opportunity to lift new export restrictions for the rest of the world⁴⁴.

In France and Belgium, all arms exports were impacted by the directive instead of only intra-EU transfers. Thus, transposed in France, the European text is in fact merged into a more general reform of exports and leads to a lowering of the level of control on arms deliveries. The system of licences (global, general or individual) replaces that of prior authorisations or authorisations for the export of war material. In reality, a level disappears in control. Previously, manufacturers had to submit applications for two authorisations: one before entering into negotiations, the other to request the departure of the equipment. Now, companies no longer have to ask for permission before the equipment leaves. And customs declarations disappear for intra-community transfers⁴⁵. This means that in order to know what is really being exported, the State simply conducts spot checks on the spot and on documents... after the material is delivered. As a counterpart to the reform, manufacturers are required to fill in a register of their commercial operations, to report to the Ministry of Defence on their orders and deliveries and to transmit the related contracts to that ministry as they are established. Thus, regardless of the type of licence used, manufacturers must submit a semi-annual report on their exports⁴⁶.

However, according to a 2015 parliamentary report, an eighth of the transactions were found to be contentious on transactions carried out between 1 June 2013 and 30 June 2014, according to data provided by the French administration⁴⁷. According to Lucie Beraud-Sudreau, a specialist in the defence industry and arms export policies, arms exports.

Effective state control comes too late when armaments are delivered and is no longer systematic, in line with its stated objective: to promote exchanges between industrialists. The format of the licences is too broad and allows for changes from one consignee to another or sudden changes in the volume of shipments without necessarily having to refer to the authorities. Equipment supplied to another manufacturer can always be re-exported to a country outside the EU. If in principle the selling State must give its consent, it seems more uncertain in practice in the case of parts and components, and with such a margin of freedom given to the industry...

By transposing a directive concerning the European internal market, Paris is therefore taking the opportunity to relax its rules on exports to countries outside the continent. A reform that goes beyond what has been formally requested by the European Commission but which the latter, under the

43. <https://eur-lex.europa.eu/legal-content/FR/TXT/HTML/?uri=CELEX:32009L0043>

44. <https://vlaamsvredesinstituut.eu/wp-content/uploads/2019/03/Towards-Europeanized.pdf>

45. https://www.assemblee-nationale.fr/14/rap-info/i2469.asp#P1425_274164

46. https://www.assemblee-nationale.fr/14/rap-info/i2469.asp#P1381_263745

47. Ibid.

influence of industrialists, has largely encouraged. The problem is illustrated by general licenses, which are the most flexible because they allow a range of different materials to be delivered to a range of recipients. In France, general licences are applicable in a number of cases that may raise questions, such as technology transfers within the EU, including equipment for police, customs, coast guards and border guards. Borders, such as ports, where private military companies can operate, are gateways for illicit arms transfers. An Alouette 3 helicopter, under French license, was exported by a South African company Ja Campbell and then supplied by the Blackwater company, headed by Erik Prince, to the maritime police of Puntland (Somalia) in violation of the international embargo, according to the United Nations group of experts⁴⁸. A French national, Bruno Pardigon, of Djibouti Maritime Security Services, acted as an intermediary between the Djiboutian government and private military companies such as Blackwater, Erik Prince's company.⁴⁹ Other cases open to the issue of the general licence raise questions: *"for the armed forces and contracting authorities"*, for *"certified companies"*.

The implementation of the reform in 2014 has contributed to increasing the opacity of the export system. The data on licences reported to the European Union are largely overstated⁵⁰ because France includes rough estimates, certainly provided by companies prior to transactions without refining them afterwards, which does not allow them to be compared with other countries. It is, however, possible to rework them from business registers in order to provide the EU with usable data, but this is clearly not what states and companies wanted in the first place.

The aim of this reform was to give priority to the competitiveness of the industry, as explained at the time by the representatives of the French government who testified to the researcher Lucie Beraud Sudreau. By giving a central place to industry, this turn in favour of competitiveness will contribute to "deregulating" the sector in France to the detriment of transparency, which has decreased. This reform has helped to remove key administrative barriers to the implementation of human rights-friendly monitoring of arms sales. Indeed, if you do not endorse each transfer on a case-by-case basis and replace this control with the granting of a form of "export permit", it goes without saying that you are giving a virtual blank cheque to the industrialists because the return of material sent illegally to a foreign recipient is almost impossible.

The system has also had problematic effects in Belgium. In the Flemish region, following the introduction of general licences, it has become much more difficult to control who is the end user of component transfers; As a result, almost 50% of exports of military goods were no longer controlled in 2016, according to the association Vredesactie⁵¹. Indeed, the Flemish region mainly produces components that are not on the EU's list of military goods but were nevertheless controlled via the introduction of a "catch-all" clause that allowed them to be subject to the system. Here again, the Flemish region has taken advantage of the directive to relax the rules of its control regime.

2.2 New funding for the arms industry without any control:

Now that industrialists can freely exchange their goods on the territory of the Union, and that some countries have lifted administrative restrictions for large-scale exports (transfers to the rest of the world), it is a question of injecting funding to encourage them to work more together.

In 2015, a group of senior officials (GoP), composed mainly of representatives of the arms industry and private research centres⁵², called for "strengthening Europe's global military position" through an investment amounting to €3.5 billion⁵³.

The work of this group of officials was followed by two pilot projects in 2017 and 2019: the €90 million Preparatory Action on Defence Research (PADR) and the €500 million European Defence Industrial

48. Report of the United Nations Group of Experts on Somalia and Eritrea, United Nations, 2012, p.240 <https://www.undocs.org/S/2012/544>

49. "Djibouti approves Blackwater for commercial anti-piracy operations", Wikileaks.org, 12 February 2009, https://wikileaks.org/plusd/cables/09DJIBOUTI1133_a.html; "Djibouti response-entry of arms for security assets protecting US flagged vessels", Wikileaks.org, November 25, 2009, https://wikileaks.org/plusd/cables/09DJIBOUTI1333_a.html

50. <https://caat.org.uk/data/exports-eu/faq>

51. <https://www.obsarm.info/spip.php?article274>

52. https://www.vredesactie.be/sites/default/files/pdf/Securing_profits_web.pdf

53. Ainhoa Ruiz, Bram Vranken, Francesco Vignarca, Jordi Calvo, Laetitia, Sedou, Wendela de Vries, "A Militarized Union." Understanding and confronting the militarisation of the European Union", Rosa Luxemburg Stiftung, 2021, p.17

Development Programme (PEDID), precursors to the European Defence Fund, and which take up many of the GoP's recommendations.

In 2021, the European Defence Fund (EDF) was voted on: it allocated €8 billion to the European arms industry until 2027, for research and development projects that cover the entire field of armaments: aeronautics, satellite, naval, land, etc. Funding that makes it possible to manufacture the next generation of autonomous military equipment, to put it in other words, robotized, whether partially or not.

According to the European Network Against the Arms Trade, at the time of the last call for projects in 2022, 24 of the 41 projects were coordinated by France, Germany or Spain, individually, or by the Airbus company which brings together all these countries⁵⁴.

Regulation 2021/697 of 29 April 2021⁵⁵ sets out the objectives and operating rules of the EDF. From the point of view of the European Union and the Member States, the stated aim of the European Commission and the Member States is:

1) to strengthen the capabilities of the various European armies by subsidizing research in the field of armaments. The objective for the armed forces is to have a new generation of more efficient equipment, in particular partly automated but also compatible in their functionalities, when they have to cooperate with each other⁵⁶.

2) It also aims to create a European defence industrial base to ensure European autonomy in the event of conflict, as most armies are dependent on foreign suppliers. It is therefore necessary to get the different national industries used to working together with each other. For this reason, each project involves at least three companies from three different Member States⁵⁷.

3) On the other hand, in the face of the development of competition from India, China and Russia, the need to strengthen the resources of this industry is stressed for fear of its demotion.⁵⁸ It is to boost its competitiveness.

The creation of the EDF is therefore in line with the Common Position and the Directive on intra-Community transfers, which have created a legal framework favourable to arms companies in the context of economic globalisation and the restructuring of defence industries. European bodies on the subject (such as COARM) make it possible to make relations between States more fluid and the directive on intra-community transfers frees arms companies from any constraints in terms of industrial policy in the EU. In order to strengthen the competitiveness of companies, i.e. their ease of exporting throughout the world, it is now a question of granting additional funds that promote the production of armaments shared between States, capable of resisting international competition, and of promoting exports to the rest of the world, by reducing as much as possible the regulatory and legislative obstacles imposed on them...

68% of the budgets allocated since 2017 go to four member states: France, Germany, Italy, Spain. Companies from these countries coordinate 65% of these projects and France accounts for a quarter of all funds, Italy 15%, Spain 14% and Germany 11%.⁵⁹ Leonardo (9.5%), Indra (6.4%), Airbus (5.1%), Safran (4.7%) and Thales (6.7%) are the companies that receive the most funding from the EDF.

A- Lack of effective parliamentary control over EDF:

The EDF and its annual programmes were drafted by the European Commission in charge of the Internal Market and Industry. They were then discussed and amended by the European Parliament and the Council.

In general, the Parliament has the right to scrutinise the implementation of EU funding programmes and can comment on or even block work programmes.

54. https://enaat.org/wp-content/uploads/2023/07/ENAAT-NBB-2023-05_20.07.2023.pdf

55. <https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=CELEX%3A32021R0697>

56. https://ec.europa.eu/commission/presscorner/detail/fr/IP_23_2021

57. <https://eur-lex.europa.eu/legal-content/FR/ALL/?uri=CELEX%3A32021R0697>

58. <https://www.senat.fr/rap/r18-626-1/r18-626-15.html>

59. <https://enaat.org/2022/12/14/new-publication-now-in-7-languages-how-the-eu-is-funding-arms-dealers-and-corrupt-corporations>

In 2019, during a first vote for the adoption of the 2021 Defence Fund, MEPs excluded themselves from any parliamentary scrutiny of funded projects, contrary to the initial promises following the PEDID pilot programme. In Parliament, only the Green group, a fraction of the German SPD and the European United Left (GUE) were in favour of setting up parliamentary scrutiny of the implementation of these projects. The trajectory of the Socialist MEP and then of “Generations” Édouard Martin, who has since left the benches of the European Parliament, is interesting in this respect. The former trade unionist who obtained the strategic position of “shadow rapporteur” was initially in favour of the Defence Fund without much in return. He has changed his position in the name of human rights and ethics. In addition to the above-mentioned groups, his Generations party has come out in favour of exercising control over “the implementation of the project” and “the establishment of “parliamentary control of arms sales” co-financed by the EU, amendments that have not been voted on by the European Parliament⁶⁰. In France, representatives of the Socialist Party, the Modem and the Republicans opposed these amendments.

The European Parliament therefore has no say in the precise use of the €8 billion for seven years, while the Member States are in the front line with a form of veto power within the programme committee. It will only be able to speak again on the budgetary aspect at the end of the programme in 2027⁶¹.

Generally speaking, under the European rules in force, the Parliament has competence in the technical field but does not determine the direction of defence policies that fall within the competence of the Member States. At a time when Community competence has intruded into the backyard of the Member States, there is no reason why Members of the European Parliament should now be excluded from this supervisory role. Even if the funding is European, the control remains only national and the Member States can continue their arms exports as they see fit, including to authoritarian regimes and countries at war.

B- Lack of effective ethical monitoring and verification of the compliance of Projects with international law:

The European Defence Fund programme is supposed to evaluate proposals and monitor projects from an ethical point of view. Again, during the negotiations on this European Defence Fund, the proposed amendments to improve the transparency of ethics reviews and to introduce the possibility of terminating an ongoing project on ethical grounds were rejected by the Member States and by the European Commission, and Parliament again gave in⁶². According to Laëtitia Sédou, project officer at the European Network Against the Arms Trade (ENAAAT),⁶³ projects with ethical risks are not automatically excluded from funding, but their application is supposed to be limited to the financing agreement, an agreement that is not made public.

In fact, the ethical review of project proposals appears to be minimal. In 2020, the Belgian association Vredesactie, a member of ENAAAT, requested access to the documents that formed the basis for the selection of PADR beneficiaries at the European Defence Agency⁶⁴. The EDA, which was in charge of implementing this first pilot programme, ended up providing 24 documents, most of which were redacted in the name of “exceptions to the right of access”. However, they lead to the conclusion that ethical reviews are not up to the challenge and do not meet the obligations arising from Protocol I of the Geneva Convention on Research and Development of New Armaments. Article 36 of the Convention provides that, in the study, development, adoption and acquisition of a new weapon, States have an obligation to determine whether its use would be prohibited in certain or all circumstances. In several countries, such as the Netherlands, Belgium and Sweden, entities are studying the compliance of armaments projects with international humanitarian law, a mechanism that is absent in the EU framework⁶⁵.

60. <https://web.archive.org/web/20200814025851/https://www.delegation-generation-s.eu/la-delegation-generation-s-condamne-la-position-en-premiere-lecture-du-parlement-sur-le-fonds-europeen-de-defense-et-regrette-une-occasion-manquee/>

61. Ainhoa Ruiz, Bram Vranken, Francesco Vignarca, Jordi Calvo, Laetitia, Sedou, Wendela de Vries, “A Militarized Union”, op.cit., p.40.

62. “All you want to know about the EU Defence Fund, and why this is not good for peace nor for jobs and growth”, Enaat.org, 12 July 2019, <http://enaat.org/eu-defence-fund>

63. *Ibid.*

64. Fanning the Flames, “how the European Union is fuelling a new arms race”, Enaat/TNI, March 2022, <https://www.obsarm.info/spip.php?article379>

65. <https://www.obsarm.info/spip.php?article379>

The same problem arises with regard to the EDIDP, whose regulation does not even formally provide for an ethical assessment, although the Commission claims to be carrying out one. Finally, with regard to the current Defence Fund, according to the Regulation on which it is based, the ethical evaluation of projects is based first and foremost on a self-assessment by the industrialists who submit the project, and it seems that only those whose self-assessment would raise ethical questions are examined in greater depth.

In 2020, the Vredesactie association also requested access to the ethical evaluations of the PEDID projects that the Commission declared to be carrying out, access which was refused on the grounds of business secrecy⁶⁶. Following a complaint to the European Ombudsman, the Ombudsman examined the documents that could respond to Vredesactie's request and concluded that "the documents contain only very limited information on the compliance of the proposals with international law", which is "a source of concern". In other words, there are no documents to transmit because there is no serious ethics review but a simple "ticking exercise".⁶⁷ The following year, Luke Ming Flanagan, an MEP from the European United Left, also raised concerns with the Commission.⁶⁸ A request reiterated by Özlem Demirel (GUE) in 2023⁶⁹.

C- Very weak control over the implementation of the programme and the proceeds of research in Europe and elsewhere:

The European Defence Fund is also open to certain companies based outside the EU as well as to foreign-controlled entities, which raises many questions as these entities are not subject to the EU Common Position. According to Laëtitia Sédou of ENAAT⁷⁰, countries associated with the EU can participate and receive EU funding if this is necessary to achieve the objectives of the action. This definition includes Norway, Iceland, and Liechtenstein, which are members of the European Free Trade Association and the European Economic Area. Foreign-controlled entities based in the EU may also benefit from funding by way of derogation. To do so, it must meet guarantees approved by the Member State or associated country in which it is based, according to Article 9 of the EU Regulation establishing the Fund. Nevertheless, there is a lack of clarity around the notion of "guarantees" which are not detailed, the only mention in this text is the fact that the management structure is not established abroad. This means that the future production and exports of these third-party entities are exempt from EU or national regulations, such as the EU Common Position. In the absence of an efficient control system, the situation can become even more opaque when a foreign country acquires a European company participating in the Fund during the course of a project. This is the case of the Estonian company Milrem Robotics, which was acquired by the Emirati conglomerate Edge in 2023⁷¹. For the European Commission, which conducted the investigation, the company's involvement is still "compliant" without further details being communicated to us. The latter can also apply for other European funding in line with what has been negotiated. To prevent EU money from being used to finance projects that are out of control, it is necessary to exclude from participation in the Funds associated countries and all legal entities under the control of a non-associated third country, whether as recipient or subcontractor.

At the level of the implementation of the programme, there is also very little control. It is largely based on the self-regulation of manufacturers. A mid-term review is being carried out by the European Commission, but it is judge and jury, and it will be up to a newly elected Parliament to take part in this review, while many MEPs will not yet have mastered the issue. Moreover, it will be a simple opinion that will have little or no impact on the rest of the program. We propose that the European Parliament, which should draw on the expertise and perspective of civil society, should be involved in the implementation of the project. Parliament must issue an annual report evaluating, among other things, the process of selecting beneficiaries and the ethical control of projects by the Commission.

There is also the question of the use that can be made of research and development activities. The intellectual property is wholly owned by the industrialists and project partners⁷², as defined by Article 20

66. https://europea.eu/youreurope/business/running-business/intellectual-property/trade-secrets/index_fr.htm

67. <https://www.ombudsman.europa.eu/en/decision/en/139074>

68. https://www.europarl.europa.eu/doceo/document/E-9-2021-001518_EN.html

69. https://www.europarl.europa.eu/doceo/document/E-9-2023-001898_EN.html

70. "All you want to know about the EU Defence Fund, and why this is not good for peace nor for jobs and growth", Enaat.org, 12 July 2019, <http://enaat.org/eu-defence-fund>

71. <https://www.defensenews.com/global/europe/2023/03/31/eu-scrutinizes-emirati-takeover-of-estonian-robotics-firm/>

72. "All you want to know about the EU Defence Fund, and why this is not good for peace nor for jobs and growth", Enaat.org, 12

of the European Defence Fund Regulation. They have the right to define by agreement *“the distribution of their shares and the conditions for the exercise of their common property”*. Third countries cannot veto the transfer of technology, unless the project owner is located outside the European Union. It is only where Union assistance is provided in the form of public procurement that the Union owns the results and the Member States and/or associated countries are entitled, free of charge, to a non-exclusive licence to use the results upon their written request. The Commission must be informed before any transfer of ownership to a third State, so that it can make an assessment which remains discretionary and is based on documents in its sole possession. Parliament is not involved. The Commission does not have the legal power to prevent the transfer and can at best claim reimbursement of the subsidies received. European money is therefore used to produce technologies over which the EU has very limited control, and which can be exported to authoritarian regimes and countries at war...

In addition, the arms market has been transformed. European countries are increasingly shifting production to customer countries via subsidiaries, which may involve patents to manufacture parts. Among the countries that buy the most weapons, and that benefit the most from technology transfers from Western states, are the Gulf countries (Qatar, Saudi Arabia, United Arab Emirates).⁷³ To organise these technology transfers, the major European arms companies have numerous subsidiaries in foreign countries: Rheinmetall in Saudi Arabia, Thales in the Emirates, etc. According to an arms industry trade unionist interviewed, *“know-how is generally shared with subsidiaries at the R&D stage”*. The open door left to manufacturers may risk leading to a proliferation of technologies financed by these European funds without giving ourselves the means to trace them. For the time being, it is impossible for the citizens to know the status of the development of the technologies financed by the different strands of the EDF: what are they intended for? Where will they be exported?

Member States should include in their annual reports and data reported to COARM all information on transfers of intellectual property under the European Defence Fund or national or local state aid, as well as data on exports of parts, components and final products based in part or not on research and development carried out under the European Defence Fund or national or local public aid. We call on companies and Member States to consult the European Parliament before any transfer to a third country of intellectual property licences resulting from EDF projects, in part or not. The European Parliament, which is the only third party able to independently scrutinise the actions of the Member States, must assess these divestment projects against the criteria of the EU Common Position. Its consent must be compulsory. Civil society, whose mobilization is at the origin of international regulations, has been participating in discussions with the Council of the EU on the subject for twenty years. In the case of sensitive destinations (such as countries in the Middle East) or sensitive technologies (such as lethal autonomous systems, surveillance systems or motion sensors), we propose that a panel of representatives of NGOs specialising in the control of arms transfers be seized and issue a prior opinion to enlighten parliamentarians.

In Article 20, the European Regulation on the European Fund differentiates between the assignment of intellectual patents and the export of final product, the export of which would be subject to the freedom of decision of the Member States. In fact, the European Union's Common Position does not distinguish between the export of *“physical” military equipment* and *“intangible transfers of software and technology by means such as electronic media, fax or telephone.”* and *“those aimed at the licensed production of military equipment in third countries”*, formulations that theoretically bring studies, schematics, and other prototypes into the field of exports⁷⁴. In 2021, MEP Hannah Neumann (Greens/EFA) asked the European Commission whether it has taken any measures to control exports of products born from the European Defence Fund⁷⁵. She repeated her question two years later on the more specific subject of compliance with international embargoes⁷⁶. The European body did not respond, but in a communication dated 15 February 2022, it was in favour of all-export. The Commission defends *“an approach in which countries cannot prevent each other from exporting to a third country any military equipment and technology developed in cooperation. This could apply to planned exports of equipment or technology incorporating components from another Member State above a certain minimal threshold.”*⁷⁷ Is the Commission referring

July 2019, <http://enaat.org/eu-defence-fund>

73. <https://op.europa.eu/en/publication-detail/-/publication/d401fe2e-1b60-11e7-aeb3-01aa75ed71a1>

74. <https://eur-lex.europa.eu/legal-content/FR/ALL/?uri=CELEX%3A32008E0944>

75. https://www.europarl.europa.eu/doceo/document/P-9-2021-003301_EN.html

76. https://www.europarl.europa.eu/doceo/document/E-9-2023-002652_EN.html

77. https://enaat.org/wp-content/uploads/2022/04/ENAA-NBB-2022-1_April2022.pdf

to the Franco-German agreement which states that 'any material containing less than 20% German components (by value) could be exported freely by France without the need for an agreement from Germany - and vice versa'⁷⁸, an agreement which has since been extended to Spain? In any case, this standard is insufficient from the point of view of compliance with the Common Position. As the funding is European, we propose that Parliament, referred to it by COARM, carry out a preliminary examination of the export licences for the final products. An examination involving the participation of a panel of experts appointed by NGOs specialising in the control of arms transfers with regard to sensitive technologies and destinations. In the case of export of parts, components and the final product, the co-owners of the research and development that was used in all or part of the development should be involved in the final export decision made under COARM. The final decision must be in line with the most restrictive position expressed with regard to respect for the European Union's Common Position. Member States should include in their annual reports the data reported to COARM and all data on product exports based wholly or partly on research and development carried out under the European Defence Fund. Parliament must assess in an annual report the exports of the final products resulting from all or part of the EDF projects with regard to compliance with the EU Common Position.

D- Serious problems of upstream and downstream transparency aggravated by the use of "trade secrets":

To evaluate and select project proposals, the European Commission is assisted by so-called "independent" experts who have "security references" validated by the States. The Commission is clearly looking for profiles of technical experts in the field of armaments but does not claim competence in the field of human rights or humanitarian law, which clearly proves the artificial nature of the "ethical" precautions put forward⁷⁹. Aren't these independent experts really meant to be the "submarines" of states and industry? Of the 16 representatives of the Group of Eminent Persons who drafted a report on the modalities of the Defence Fund, at the request of the Commission, nine belonged to the arms industry. The list of independent experts is also confidential, and it is therefore not possible to verify these potential conflicts of interest, a situation that the European Ombudsman has expressed concern about⁸⁰.

And even when documents are obtained, as was the case with Vredesactie's request to the EDA regarding the PADR, the censored parties make it impossible to know the names of the examiners and thus to assess the risk of conflicts of interest. It is also not possible to know the content of the discussions during the evaluation, nor the methodology used. The European Commission has indicated that the disclosure of the documents would "compromise the protection of the commercial interests" of manufacturers, an expression that may refer to the European directive on trade secrets, which leads to restricting the right of expression in the name of protecting certain commercial information⁸¹. In any case, this argument is contradictory to the spirit of the EU Common Position since it was intended to be used to combat the opacity of decision-making by pushing States to publicly justify certain choices.

The development of this Fund therefore raises many transparency problems, not only upstream regarding the selection of projects, but also downstream.

The European Defence Fund is divided into three programmes, each of which has its own platform for presenting projects. PADR and EDIDP have their own dedicated websites,⁸² while the content of the final component of the Fund can only be consulted on a site that compiles the European Union's calls for tenders⁸³. While its funding comes from taxpayers' money, the European Commission provides little information on the projects funded: mainly the name of the project, the participating companies, the overall amount of funding, and the area concerned by the project with a very succinct presentation. The breakdown of the budget by participating company is published later, almost two years after the call for

78. <https://www.lopinion.fr/secret-defense/export-darmement-vers-un-seuil-franco-allemand-de-20>

79. https://defence-industry-space.ec.europa.eu/calls-tenders/defence-industry-call-experts-assist-european-commission-evaluation-proposals-submitted-funding_en#_ftn9

80. <https://www.ombudsman.europa.eu/en/doc/correspondence/en/169355>

81. <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000032932771/>

82. https://www.eeas.europa.eu/eeas/arms-exports-control-launch-online-database-increasing-transparency-eu-arms-exports_en ; https://defence-industry-space.ec.europa.eu/eu-defence-industry/european-defence-industrial-development-programme-edidp_en

83. <https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/opportunities/projects-results?programmePeriod=2021-2027&programId=44181033&order=DESC&page=1&pageSize=10>

There are no details on the type of armament developed, its intended use, what “needs” it meets, the reasons why the companies were selected, the conformity of the project with the Charter of Fundamental Rights, the Common Position of the European Union, etc. This lack of transparency does not allow civil society to assess the compliance of the various projects with the rules of international humanitarian law and international human rights standards, as well as with the EU Common Position and the Arms Trade Treaty. A dedicated online platform, pooling information from the three programmes, is to be set up to provide ergonomic access to all calls for projects, details and possible use of the developed armaments, the applicants, the selected companies, and details on how these projects comply with the Charter of Fundamental Rights and the EU Common Position on Arms Exports. At this stage, only an independent online platform run by Open Security Data Europe journalists provides aggregated information from company names on both PADR and EDIDP funding programmes, in addition to the European programmes in the field of security⁸⁴.

The weight of a country like France in the European institutions on the subject of defence leads to distortions between States in the respect of the rules. Recently, pressure from Paris pushed the European Commission to bypass the tender procedure in favour of the missile company MBDA on a hypersonic interceptor project and to duplicate at least part of an already existing project awarded to a Spanish consortium. The opacity also stems from the inequality between States in the face of the law, due to the ability of large States, in particular France, to use pressure to endorse proposals that meet their interests. A manoeuvre that testifies to the weight of national interests in the search for a common goal. Indeed, several French personalities have been placed in key positions within the European Commission in the field of defence, starting with Thierry Breton European Commissioner for the Internal Market and Industry, whose influence is growing. A former CEO of the Atos group, which specialises in military computing, which has fuelled accusations of conflict of interest, he is considered a de facto quasi-vice-president of the EU. According to H  l  ne Conway-Mouret, a French national deputy, France was behind the creation of the European Union Military Staff, the European Defence Agency, the Takuba «task force» and the European Intervention Initiative. The omnipresence of France is not without consequences: France pleads in favour of a massive increase in European armaments budgets, which cannot be restrained by any counterpart in terms of the obligation to respect the Common Position and the Charter of Fundamental Rights. France's position is to stubbornly refuse any form of harmonization of control.

The European Union preaches peace and sells war : how Europe is arming murderous and oppressive regimes in the Middle East 23

Chapter II – Assessment of the conformity of European arms exports with the Common Position

Given that the data in the European report are very incomplete, and in order for us to assess the conformity of European arms exports with the Common Position, we will therefore rely on other data, in particular those provided by the *Stockholm International Peace Research Institute* (SIPRI), a Swedish research organisation on arms transfers.

As explained, we have chosen not to use the official data from the European report on arms exports because the calculation and reporting methods are different between the States and do not guarantee relevant comparisons. France and Spain artificially inflate their licensing data, while Germany does not report its actual export figures. From there, it is impossible to draw up a relevant comparison, which poses a fundamental challenge.

It is therefore necessary to refer to the data of a private institute. The calculation method can be improved because it is limited to major weapons systems⁸⁵, minimizing the exports of parts and components that take up a considerable place in today's trade, not to mention the transfers of small arms and light weapons and ammunition that are not included... It is based on an independent financial assessment of the "military" capacity of exports (TIV = trend indicator value), which is primarily used to make comparisons between countries. Its purpose is not to measure the economic value of arms exports... Therefore, the data should be interpreted as benchmarks and not as financial values.

According to SIPRI data, EU arms exports account for 24% of global arms sales. The EU is behind the United States (40%) but ahead of Russia over the period 2018-2022 (16%). The countries of the Middle East are the main destination for European arms sales.

These sales and exports continue and grow as the Middle East region presents a bleak picture on human rights. The continuation and resumption of some armed conflicts is inflicting deep suffering on millions of people in Iraq, Syria, Libya, Israel, Yemen and the Occupied Palestinian Territory. Civil wars, occupation, and terrorism that subject civilians to indiscriminate attacks, destruction of vital infrastructure, forced displacement, and oppressive governance by militias, armed groups, or security forces that fail to account for violations of international law and sometimes international crimes for which they are responsible.

Governments in the region are committing serious human rights violations and using harsh measures to suppress freedom of expression, of association, and of peaceful assembly. Human rights defenders, political activists, journalists, feminists, trade unionists, cyber-activists... monitored and censored, are confronted with arbitrary detention, baseless criminal prosecution, unfair trials, prison sentences, travel bans, threats and other forms of repression. Torture and other ill-treatment continue to take place with near impunity in official and unofficial places of detention. Violence was also inflicted on the most vulnerable populations, including women, refugees, migrants and minorities.

Despite the concerns expressed by UN bodies and human rights organisations, Europe continues to fuel the human rights crisis and violations of international law in the region. This chapter details how the major exporting countries are transgressing regulations and promoting the activity of large arms companies, which are increasingly uncontrolled and more and more involved in ongoing violations.

85. <https://www.sipri.org/sites/default/files/files/FS/SIPRIFS1212.pdf>

1. European states are breaking their own rules and making themselves responsible for human rights violations in the Middle East

A- Transgressions of European regulations by France, the leading European exporter of arms to the countries of the Middle East:

France is Europe's leading exporter of arms to Middle Eastern countries. The region accounts for 35 per cent of total arms exports, 25 per cent of which go to Qatar and Egypt, which contravenes criteria 2 (respect for human rights), 3 (internal situation in the country of final destination, existence of tensions or armed conflicts), 4 (preservation of regional peace, security and stability) and 8 of the Common Position (technical and economic capacity of the recipient country). In 2021, France signed a contract for the sale of 80 Rafale fighter jets to the United Arab Emirates – at the origin of the stratospheric amount of order intake in 2022: 27 billion euros according to the figures of the latest report to Parliament⁸⁶ a contract for the sale of 10 Airbus H125 helicopters, the relocation of Airbus helicopter manufacturing in Saudi Arabia, and naval interceptors⁸⁷.

Negotiations are underway for the sale of Naval Group submarines and a satellite to Egypt⁸⁸. In recent years, the work of NGOs including the Observatoire des armements, FIDH,⁸⁹ Amnesty International France has highlighted the involvement of French equipment in conflicts in Yemen (fighter jets, ships, etc.).⁹⁰ and in the repression in Egypt (light armoured vehicles, surveillance technologies).⁹¹

Unlike several European states (Germany, Italy, the Netherlands, etc.), the French government has refused to suspend arms exports to the Arab Coalition engaged in Yemen. A complaint was filed by Mwatana for Human Rights, the European Centre for Constitutional and Human Rights (ECCHR), and Sherpa with the Paris Judicial Court against the companies Dassault Aviation, Thales Groupe and MBDA France for their possible complicity in war crimes and crimes against humanity⁹². The complaint is under investigation.

B- Germany: arms exports to the Middle East are growing despite the arrival of the three-coloured coalition in power:

34% of Berlin's arms transfers go to countries in the Middle East. With the new three-coloured Coalition (SPD, FDP, Grünen),⁹³ which came to power at the end of 2021, it was expected that the current export policy, particularly focused on Egypt and Saudi Arabia, would be called into question. Indeed, the Social Democrats were divided on the issue of arms sales to countries at war, and the Greens were opposed to it. The reality, however, is that they are amplified. While Middle Eastern states are no longer among the top 10 recipients of new export licenses in 2022⁹⁴, actual arms transfers to this region, linked to contracts signed before, doubled from 2021 to 2022. The share of Middle Eastern destinations in total remittances has even increased significantly, from 44% (2021) to 51% (2022), with significant exports to Israel (frigate, submarines), which is responsible for numerous human rights violations in Palestine in contradiction with criteria 2 (respect for human rights), 3 (domestic situation in the country of final destination, (e.g., the existence of armed tensions or conflicts) of the Common Position. Similarly, transfers concern Egypt (frigate, anti-aircraft systems, frigate engine), which raises questions in relation to criteria 2, 3 and 8 of the Common Position.

86. <https://www.latribune.fr/entreprises-finance/industrie/aeronautique-defense/historique-inedit-la-france-a-exporte-pour-27-milliards-d-euros-d-armements-en-2022-970968.html>

87. https://actu.fr/normandie/cherbourg-en-cotentin_50129/cherbourg-les-cmn-transfere-trois-nouveaux-intercepteurs-vers-l-arabie-saoudite_34829585.html

88. <https://www.africaintelligence.fr/afrique-du-nord/2023/06/13/defile-d-officiels-egyptiens-a-paris-sur-fond-de-contrat-militaire,109992624-art>

89. <https://exceptions-francaises.fidh.org/>

90. <https://www.obsarm.info/spip.php?article303>

91. <https://www.obsarm.info/spip.php?article310>

92. <https://www.asso-sherpa.org/complicite-de-crimes-de-guerre-au-yemen-une-plainte-deposee-contre-des-entreprises-darmement-francaises>

93. The **Traffic Light Coalition** (German: *Ampel-Koalition*) consists of the Social Democratic Party (SPD), whose colour is red, the Free Democratic Party (FDP), whose colour is yellow, and Alliance 90 / The Greens, whose colour is green. These three colors are also those of traffic lights.

94. <https://www.bmwk.de/Redaktion/DE/Pressemitteilungen/2023/01/20230104-ruestungsexportpolitik-der-bundesregierung-im-jahr-2022-partnerlaender-und-ukraine-sind-schwerpunkt-deutscher-ruestungsexporte-in-2021.html>

Germany was known to enforce an embargo on Saudi Arabia. An embargo that was only applied marginally according to our audits published in 2021⁹⁵. For example, the agreement excludes maintenance and, to a certain extent, cooperation agreements with European partners (delivery of spare parts, etc.). In 2023, Berlin signed new export licenses for parts related to the European Eurofighter programs... while confirming that new fighter jets will not be sold to Saudi Arabia⁹⁶. In the end, radars and engines were delivered to Saudi Arabia and the United Arab Emirates between 2018 and 2022. Even more recently, in January 2024, when violence has resumed dramatically in the Middle East, during her visit to Israel, the German Foreign Minister announced that her country would no longer oppose the sale of European fighter jets to Riyadh, precisely to respond to the conciliatory and measured position of the Saudi authorities in the context of this conflict⁹⁷.

While an order for Rheinmetall trucks to Riyadh was cancelled, the Meko frigates originally destined for Saudi Arabia were redirected to Egypt by the previous government⁹⁸.

Another problem is that Berlin's export policy distinguishes between NATO and non-NATO destinations. However, among the beneficiaries of the new export permits in 2022 is South Korea, which has inexplicably been classified as a NATO-compatible country. Seoul won contracts with Egypt and the United Arab Emirates⁹⁹ last year and exports many weapons to Iraq¹⁰⁰. The armament issued by Berlin can therefore be found in the Korean equipment supplied to these countries. This is also the case for France, Berlin's customer and partner on joint armaments projects (armoured vehicles, aviation) which is the leading European exporter to the Gulf countries. In 2022, exports of small arms and light weapons remain at a significant level, especially since Russia's invasion of Ukraine, raising fears of a spread of these weapons as happened after the war in Lebanon or the former Yugoslavia. A reform of arms export controls was planned. It was intended to incorporate the criteria of the Common Position into German law. But for the time being, its preparation in 2022 has been limited to technical consultations with civil society and industry players and today seems to be at a standstill¹⁰¹. On the contrary, the government sought in July 2023 to simplify the rules for exports to EU/NATO countries and close partners, such as the Republic of Korea, Singapore, Chile, and Uruguay¹⁰². *"The high levels of authorization for arms exports in 2021 to third countries that are neither members of NATO nor the EU, or have the same status as them, continue to be highly problematic,"* said the World Council of Churches in 2022¹⁰³, which produces an annual report on German arms exports.

C- Italy: explosion of arm sales to Qatar and Egypt:

Italy is ranked third, where 50% of arms exports are dedicated to the Middle East. Half of it goes to the Gulf and Maghreb region. Deliveries have exploded in the last two years: the years 2021 and 2022 alone account for 70% of transfers from 2018 to 2022. The level is unmatched since the SIPRI base came into existence.

Qatar and Egypt account for about half of the deals. Ships and helicopters have been transferred to Qatar in recent years – problematic in relation to criterion 2 of the Common Position, while Egypt has taken delivery of frigates and naval artillery guns, contradicting criteria 2 (respect for human rights), 3 (internal situation in the country of final destination, existence of tensions or armed conflicts) and 8 (economic capacity of the destination country). Following the mobilisation of civil society and parliamentarians¹⁰⁴, the Italian government suspended the delivery of bombs and ammunition in 2019 and 2020 to Riyadh and Abu Dhabi due to the war in Yemen. This armament is produced by the Italian subsidiary of the German company Rheinmetall. The shipment of more than 12,700 bombs was even completely revoked by the Conte government in 2021.¹⁰⁵ Unfortunately, these measures were lifted in

95. <https://www.dw.com/en/german-government-approves-arms-exports-to-saudi-arabia-reports/a-63288334>

96. <https://www.eurasiantimes.com/eurofighter-sales-to-saudi-arabia-despite/>

97. <https://meta-defense.fr/2024/01/08/eurofighter-typhoon-arabie-soudite-ok/>

98. <https://www.obsarm.info/spip.php?article353>

99. <https://www.nytimes.com/2023/03/05/world/asia/ukraine-south-korea-arms.html>

100. Sipri data

101. <https://www.domradio.de/artikel/gkke-vorsitzender-fordert-ein-ruestungsexportkontrollgesetz>

102. <https://www.bmwk.de/Redaktion/DE/Pressemitteilungen/2023/07/20230725-verfahren-zur-exportkontrolle-werden-effizienter-gestaltet.html>

103. <https://www.bicc.de/press/press-releases/press/news/gkke-report-2022-good-approaches-that-threaten-to-falter-754/>

104. <https://www.disarmo.org/rete/a/46635.html>

105. <https://retpacedisarmo.org/export-armi/2021/01/il-governo-revoca-l'export-di-bombe-verso-arabia-saudita-ed-emirati->

April and June 2023 in view of the situation in Yemen¹⁰⁶. The government is mainly highlighting “the signing of a truce” and “the reduction of fighting”.

In 2018, the organizations Mwatana, ECCHR and Rete Italiana Pace e Disarmo filed a complaint with the Rome court against RWM Italia following an airstrike that was carried out by the Saudi/UAE-led military coalition in 2016 and hit the village of Deir **Al-Hajārī** in Yemen. A family of six was killed. However, in March 2023, the preliminary investigation judge in Rome ruled out any responsibility for the agents of the National Arms Export Authority, in charge of export permits, and the company RWM Italia¹⁰⁷.

D- Spain: corvettes and bombs sold to Saudi Arabia:

Spain occupies the 4th position: 18% of its exports are directed to the Middle East. This represents €656 million out of €3.5 billion directed to Saudi Arabia alone, in violation of criteria 2 (respect for human rights), 3 (internal situation in the country of final destination, existence of tensions or armed conflicts), 4 (preservation of peace, security and regional stability). In 2022, according to Sipri, operations to Riyadh accounted for 62% of total Spanish exports, an unprecedented level. Indeed, the Gulf countries have never been Madrid's preferred area. Exports were directed more towards a mix of destinations: Egypt, Australia, Morocco, Thailand, etc. Several corvettes¹⁰⁸ and 155mm guns were delivered to Riyadh. According to the Delà Centre, the European Centre for Constitutional and Human Rights (ECCHR) and the Spanish branch of Amnesty International, Airbus' Spanish subsidiary supplies components to Saudi A330 MRTT and Eurofighter tanker aircraft. In 2020, spare parts for these aircraft were delivered to Riyadh. On the other hand, the maintenance of the Airbus 330 MRTT is carried out in Spain. Two planes have been spotted in the country according to open-source research by the associations. Despite a government announcement to suspend this transfer to Riyadh¹⁰⁹, the Spanish government did deliver 400 bombs in 2018, in the middle of the war in Yemen.

2. Companies implicated in breaches of the EU Common Position benefit from European Defence Fund projects

As the major arms companies monopolize competences, they find themselves very well represented in the various projects of the European Defence Fund. The major arms companies participating in the Fund are involved in exports to conflict zones or authoritarian regimes, in contradiction with the European Union's Common Position. In recent years, Leonardo, Safran, Thales and Airbus have delivered arms to Saudi Arabia and the United Arab Emirates, responsible for war crimes in Yemen in violation of the EU Common Position (criterion 2 respect for human rights, criterion 3 internal situation in the country of final destination, existence of tensions or armed conflicts, criterion 4 Preservation of regional peace, security and stability). These companies are involved in a very large number of projects under this fund. This is the case for Leonardo, which is participating in 28 projects on the PADR and EDIDP programs, and Safran, which is involved in thirteen projects according to the Open Security Data Europe online database¹¹⁰.

Other smaller companies benefit from the Fund, such as the company Mekar (acquired by Nexter Systems) whose grenades were used against the civilian population in Saudi Arabia, in contradiction with criteria 2 (respect for human rights) and 3 (internal situation in the country). Nexter Systems is the beneficiary of three projects from the PADR and EDIDP programs according to the same database.

The Austrian company Schiebel, whose drone sold to the Emirates (or made in cooperation with the country) in contradiction with criteria 2, 3 and 4, was used in a crime committed against the Libyan civilian population, is involved in a European research project “CBRN-RSS – Chemical, Biological and Nuclear Reconnaissance and Surveillance System” which aims to improve technological capabilities for chemical, radiological or nuclear reconnaissance.

arabi-soddisfazione-delle-organizzazioni-della-societa-civile/

106. <https://www.futuroquotidiano.com/arabia-saudita-italia-rimuove-stop-a-vendita-armi/>

107. <https://retepacificdisarmo.org/export-armi/2023/03/giustizia-negata-vittime-crimini-guerra-yemen-nonostante-accertate-violazioni-norme-export-armi/>

108. <https://www.navalnews.com/naval-news/2022/12/navantia-delivers-3rd-avante-2200-corvette-to-saudi-arabia/>

109. <https://www.reuters.com/article/us-yemen-security-saudi-spain/spain-confirms-it-has-halted-sale-of-bombs-to-saudi-arabia-idUSKCN1LK1N2>

110. <https://opensecuritydata.eu/>

Our appendix looks more generally at the exports of large EU companies to the countries of the Middle East.

A- Saudi Arabia: Belgian grenades are used against civilians in Saudi Arabia, the EU creates an uncontrolled Ammunition Fund:



In a series of photos obtained by the Gulf Centre for Human Rights, it was possible to identify an anti-tank grenade (thrown with a rifle) from the Belgian manufacturer Mecar, whose owner has been Nexter Systems since 2014¹¹¹. This ammunition was left behind by the special security forces during armed clashes that took place in mid-2017 with a group of armed men holed up in the Al-Masora neighbourhood in the city of Al-Awamiya. It is a locality in the Al-Qatif region based in eastern Saudi Arabia. At the time, the city experienced significant and continuous protests by demonstrators from the Shiite minority. This anger was catalysed by the Arab Spring of 2011. Security forces used a variety of weapons, including artillery, to dislodge them, after which they razed it to the ground and emptied it of its inhabitants. The repression left about twenty people dead¹¹². The European Union's Common Position has clearly been circumvented: it calls on European states not to deliver arms to countries marked by human rights violations (criterion 2) and internal tensions (criterion 3). In 2020, the Belgian Council of State suspended 19 arms export licenses to Saudi Arabia. A judgment involving the Walloon company¹¹³. These rulings have had a significant impact because in the last two years, arms exports from the Walloon region have decreased¹¹⁴, particularly to Saudi Arabia. However, Mecar has not been affected: "The ammunition company for which, according to Walloon Minister-President Elio Di Rupo, 'trade with Saudi Arabia is increasing [...] up to [...] 60%', reports a fourfold increase in its turnover between 2020 and 2021. The company explains this by "transfers of activities from the [French] sister company Nexter Munitions which is facing an increase in activity". Mecar is also said to have produced ammunition for Egypt, which raises questions in view of what several NGOs consider to be "the catastrophic human rights situation in the country"¹¹⁵ stressed the Observatory of Walloon Arms in 2023. In addition, Mecar ammunition has also been found in Yemen¹¹⁶. The Belgian company, now Nexter Arrowtech, is a stakeholder in

111. <https://cat-uxo.com/explosive-hazards/grenades/40mm-arp-rfl-40n-rifle-grenade>

112. https://www.lemonde.fr/proche-orient/article/2017/08/25/la-pouvoir-saoudien-recourt-a-la-politique-de-la-terre-brulee-contre-les-rebelles-chiites-d-awamiya_5176280_3218.html

113. <https://www.lalibre.be/belgique/politique-belge/2020/03/24/les-raisons-qui-ont-conduit-le-conseil-detat-a-suspendre-19-licences-darmes-wallonnes-vers-larabie-saoudite-5LQ44AEIXBEIZOB5FJ3AB52DXM/>

114. <https://www.amnesty.be/campagne/pour-contrôle-ventes-armes/observatoire-armes-wallonnes;>
https://www.amnesty.be/IMG/pdf/wam_rapport_2022-2.pdf

115. <https://www.amnesty.be/campagne/pour-contrôle-ventes-armes/observatoire-armes-wallonnes>

116. <https://medor.coop/nos-coups-nos-armes-et-larabie-saoudite/armes-belges-vers-larabie-saoudite-exporter-coute-que-coute-guerre-yemen-wallonie-industrie-emploi-fn-herstal/?full=1>

the European Defence Fund's FIRES and E-COLORSS projects¹¹⁷. Worse, it risks benefiting from other European subsidies. Despite the involvement of European munitions in the conflicts in the Middle East, in July 2023, MEPs voted for the ASAP regulation (Action to support the production of ammunition) intended to increase the production capacity of ammunition and missiles: €500 million. This funding raises real fundamental questions. Announced to help Ukraine, its use is likely to be much wider. During the negotiations, the Member States and MEPs rejected the idea that priority orders could be imposed on manufacturers in the name of the "war economy" and in support of the Ukrainian army, under very strict conditions. The States have refused this provision in order to avoid any form of transfer of competence, even strictly limited, to the European Commission, but also to respond to the fears expressed by manufacturers of losing the confidence of their export customers, as explained by Eric Béranger, CEO of the company MBDA, in a letter sent to the DGA on 8 June in his capacity as President of the Defence Committee of CIDEF.¹¹⁸ Industrialists will remain free to dispose of the surplus as they see fit and put it at the service of repressive regimes such as Saudi Arabia, which is a far cry from the original version of the project's presentation. On the other hand, as for the Defence Fund, MEPs have given up any power of control over the implementation of the project, which leaves states free to export without any transparency.

B- Libya: an Austro-Emirati drone Schiebel, an actor of the Fund, involved in spotting a bombing killing several people in 2016:

On November 12, 2016, an Air Tractor-L3Harris AT-802U airstrike directed by the LNA, Haftar's forces, killed several people, according to *DSI* magazine, which reported that at least four civilians were killed, including two children and one wounded, while others were trapped in the rubble¹¹⁹. This is confirmed by the NGO Airwars, which draws up the balance sheets of the victims of conflicts from open online sources. Sources judged by the NGO in this case to be of "honest" quality: between 3 to 5 killed and 1 to 3 wounded¹²⁰. However, according to *DSI*, it was a Camcopter drone that carried out the reconnaissance of this operation on November 2, 2016. The drone and the U.S.-made aircraft are working together in operations that have led to dozens of airstrikes, according to the report. Drones piloted by mercenaries working for the mercenary Erik Prince who has joined the Emirati army. This drone is the product of a long-standing collaboration between the Emirati company Adasi and the Austrian Schiebel¹²¹. Austria began designing these aircraft in 2003 and 2005 for the United Arab Emirates. The Emirati version is called Garmooosha. The industrial partnership with Abu Dhabi is problematic with regard to the fulfilment of criteria 2, 3 and 4 of the Common Position (criterion 2 respect for human rights, criterion 3 internal situation in the country of final destination, existence of tensions or armed conflicts, criterion 4 preservation of regional peace, security and stability). The French Navy acquired two Camcopter drones in 2012 and 2018¹²². The Austro-Emirati company is receiving a European subsidy as part of a research project on the monitoring of chemical, biological and nuclear threats.¹²³ At this stage, there is nothing to prevent Schiebel and Austria from transferring the technology developed with European funds to its Emirati partner Adasi, it is even encouraged by the very permissive European regulations.

C- Egypt/Saudi Arabia: Safran's French Patroller drone, financed by a European programme, is of interest to countries in the Middle East:

The aim of the European Defence Fund's Ocean 2020 project¹²⁴ is to improve maritime surveillance by creating bridges between different weapons systems (ships, drones, etc.) in order to create better European coordination during operations at sea¹²⁵. Among the projects financed is the design of the marine version of Safran's Patroller drone, which also incorporates a radar from Italy's Leonardo, the head of the consortium¹²⁶. Even if there is a marine version, the drone is by definition a multimodal tool

117. <https://www.knds.fr/en/our-news/latest-news/nexter-systems-strengthens-its-participation-european-defence-fund-projects>

118. https://club.bruxelles2.eu/2023/06/carnet-13-06-2023-geopolitique-europeenne-defense-diplomatie-crisis-pouvoirs/?utm_source=mailpoet&utm_medium=email&utm_campaign=b2pro-or-newsletter-post-title%E2%82%82

119. <https://www.areion24.news/2018/08/07/legypte-et-les-emirats-arabes-unis-en-guerre-en-libye/>

120. <https://airwars.org/civilian-casualties/lc048-november-12-2016/>

121. <https://www.apps-drones.com/article/un-nouveau-drone-made-in-uae-775>

122. <https://www.meretmarine.com/fr/defense/schiebel-modernise-les-premiers-drones-camcopter-de-la-marine-francaise>

123. https://defence-industry-space.ec.europa.eu/system/files/2021-06/EDIDP2020_factsheet_CBRN_DEWS_CBRN-RSS.pdf

124. Launched in the framework of the Preparatory Action (PADR)

125. <https://ocean2020.eu/sea-trials/>

126. <https://www.journal-aviation.com/actualites/35663-leonardo-selectionne-pour-equiper-le-patroller>

that can be adapted to a whole range of uses. It has the capacity to be armed and can be used to bomb populations¹²⁷. It can also be used for civilian observation missions¹²⁸. A pre-contract was signed with Egypt in 2015 in a context of repression of opponents. However, the drone has now been adapted to this civilian use, probably also in relation to the new French context (surveillance of the 2024 Olympic Games),¹²⁹ its development having been delayed by several years. In 2018, according to information we gathered at the time, France was in negotiations with the United Arab Emirates on the commercialization of this drone¹³⁰. Even if the device, which has suffered development delays, seems uncompetitive compared to the leaders of the sector (China, Turkey ...), it can be sold to France's close allies (Egypt, Saudi Arabia) as part of a global partnership. Indeed, as the Armaments Observatory pointed out in 2017, the Kingdom is the holder of the previous range of aircraft: the SDTI/Sperwer which were delivered to Saudi Arabia in anticipation of the war in Yemen. The newspaper *La Tribune* mentions Saudi Arabia as a possible client¹³¹. The development of this technology risks fuelling wars and repression in the countries of the Middle East, in contradiction with criteria 2, 3 and 4 of the Common Position (criterion 2 respect for human rights, criterion 3 internal situation in the country of final destination, existence of tensions or armed conflicts, criterion 4 preservation of peace, regional security and stability). In January 2023, Patroller aircrafts were delivered to the French army¹³² and will be exported to Greece¹³³.

D- Libya: Airbus, beneficiary of the Fund, tries to circumvent the embargo on Libya:

According to our information, France is trying, via the Business France branch based in Tunis, to transfer civilian helicopters to Libya officially intended for civilian uses, such as fighting forest fires. A source close to the matter fears that these aircrafts will then be "weaponized" on the ground in Libya through the installation of all the necessary equipment. Several manufacturers such as Sides and Desautel, as well as Airbus, are currently positioning themselves for several contracts. According to Africa Intelligence, meetings were organized by Business France, in Tripoli (Libya), on May 28, 2023, and in Tunis on May 29 and 31, 2023 during which, according to information from the Armaments Observatory, Airbus Helicopters were present¹³⁴. If such an export were to take place, it would contradict several criteria of the Common Position (criterion 2 respect for human rights, criterion 3 internal situation in the country of final destination, existence of tensions or armed conflicts, criterion 4 preservation of regional peace, security and stability, criterion 8 economic capacity of the recipient country). As for the European Union embargo on Libya (Regulation 204/2011 repealed by Regulation 2016/44), it is supposed to prevent the supply to Tripoli of military and equipment that could be used for internal repression¹³⁵. However, there are some exceptions to the text. According to the EU regulation, states can "provide non-lethal military equipment" for humanitarian or protection purposes. They are also able to "authorize the sale, supply, transfer or export of equipment that could be used for internal repression, under such conditions as they deem appropriate, if they establish that such equipment is intended exclusively for humanitarian or protection purposes." Airbus is therefore only relying on the ambiguities of this text, which allows the continuation of arms exports to Libya¹³⁶. European funding for Airbus, whose equipment feeds repressive regimes, should therefore be debated because the company is involved in various European helicopter modernization projects¹³⁷. And the EU regulation on Libya must be strengthened to prevent such transfers.

127. <https://www.lefigaro.fr/societes/safran-pret-a-developper-une-version-armee-du-drone-patroller-20230217>; <https://www.capital.fr/economie-politique/patroller-a-quoi-serviront-les-drones-equipés-de-roquettes-de-larmee-francaise-1468300>

128. <https://www.lesechos.fr/industrie-services/air-defense/la-dga-certifie-enfin-le-drone-tactique-patroller-1908058>

129. <https://www.lefigaro.fr/societes/safran-pret-a-developper-une-version-armee-du-drone-patroller-20230217>

130. <https://orientxxi.info/magazine/la-france-partie-prenante-de-la-guerre-contre-le-yemen,2662>

131. <https://orientxxi.info/magazine/comment-la-france-participe-a-la-guerre-contre-le-yemen,1990>

132. <https://www.republicain-lorrain.fr/culture-loisirs/2023/01/19/le-patroller-drone-tactique-hors-norme#:~:text=Pesant%20plus%20d'une%20tonne,de%2018%20m%20d'envergure.&text=aux%20allures%20de%20planeur%2C%20avec,quatorze%20%2C%20le%20couve%20du%20regard.>

133. <https://www.nspa.nato.int/news/2023/nspa-supports-the-greek-army-with-the-upgrade-of-its-tactical-drone-force>

134. <https://www.africaintelligence.fr/afrique-du-nord/2023/05/12/business-france-veut-faire-revenir-les-entreprises-francaises-sur-le-marche-de-la-securite,109953327-art#:~:text=L'agence%20Business%20France%20s,plan%20de%20financement%20pour%20Tunis.>

135. Decision 2011/137/CFSP repealed by Decision 2015/1333/CFSP and Regulation 204/2011 repealed by Regulation 2016/44

136. If the regulations are circumvented, it remains for the industrialists to remove the financial obstacle because Tripoli is currently not in a position to finance them, as one of our sources explains.

137. https://defence-industry-space.ec.europa.eu/system/files/2021-06/EDIDP2020_factsheet_ACC_CH_MUSHER.pdf; https://defence-industry-space.ec.europa.eu/system/files/2021-06/EDIDP2020_factsheet_ACC_SPS_CARMENTA.pdf

Conclusion

In recent years, European Union member states have continued to export to countries at war and carrying out human rights violations. The Middle East is primarily concerned, accounting for 20 to 40% of the total remittances of the main European exporting countries. The big arms companies that largely share the Defence Fund have a great responsibility for conflicts and human rights violations in the Middle East. We have shown massive use of their weapons in Yemen and identified new cases in Saudi Arabia and Libya.

Other companies that benefit from the European Defence Fund are singled out in our report. Austrian Schiebel drones are involved in deadly operations against civilians in Libya and a Belgian Mecar (Nexter) munition was found during a crackdown on the Shiite minority in Saudi Arabia that left around 20 people dead. Both Schiebel and Mecar (Nexter) are at the heart of current European funding. The Fund's stated objective is *"to increase synergies between the military capabilities of the Member States"*¹³⁸ but by leaving the field open to the Commission and the States, it will also lead to the supply of demand from countries at war, thus repeating the disastrous sequences observed in recent decades.

How did we get here? The EU's Common Position and the Directive on Intra-Community Transfers have provided the legal framework for the development of a European defence industrial base, i.e. the pooling of arms production between countries. The European Defence Fund is the last stage of the rocket by allowing it to become a reality through the granting of European funds dedicated to industry.

The Europeanisation of this issue, which has been developing since the 1990s, has therefore served to strengthen the competitiveness of manufacturers. Competitiveness is understood to mean an encouragement to export more and a limitation of export controls, as envisaged by the Commission and the Member States in the context of the Directive on intra-Community transfers and the application of the EDF¹³⁹. The current configuration of the latter will make it possible to deliver weapons-related technologies far beyond Ukraine: to the Middle East, Asia... This will have the effect of increasing arms sales and strengthening the presence of Airbus, Indra, Thales, Safran and Leonardo outside Europe.

In the name of European defence, European institutions are supporting the arms industry with new funds while contributing to the deregulation of the sector (freedom to export more easily with the ICT Directive, power to transfer the intellectual property of projects almost freely within the framework of the EDF). No real safeguards have been put in place to enlighten the use of the technologies produced and to prohibit their being sent to war zones and repressive regimes. The current policy is based on the presupposition that over-armament and the development of military tools are necessary to guarantee our security, without this being demonstrated and refusing to examine all the implications of the funding allocated.

The European Union has built a model in which states and industrialists hold almost all the powers, while the role of Parliament remains marginal. The lack of harmonisation of data, the confidential nature of exchanges within the Council of the EU and the absence of a role for the European Parliament are not the product of chance but of the refusal to give effective control tools to MEPs and civil society actors. It is therefore parliamentary and democratic control that must be built at the European level if we want to reverse the current logic and ensure that exporting states are subject to real independent control over the respect of their commitments in terms of respect for human rights. This is the necessary condition for the Common Position to become an effective tool for the benefit of democracy and human rights and not an instrument that accompanies the development of the arms market.

At a time when the Commission and the Council are jointly defining guidelines in the fields of arms development and production, the roles must be rebalanced, and Parliament must have its say as well as civil society. Because they involve European funds, the transfer of intellectual property and the export of final products by industrialists and proceeding from the European Fund must be studied and validated by the European Parliament, in conjunction with civil society on the most sensitive technologies, and export decisions must be in line with a restrictive reading and interpretation from the point of view of compliance with the Common Position. Community funding must not go to industrialists who persist in selling to countries which are the subject of several export refusals. This is a first step towards harmonizing the policies of member states in the direction of respect for human rights.

138. <https://ue.delegfrance.org/fonds-europeen-de-defense>

139. See the last section on "Intellectual Property."

Recommendations

The ongoing policies of supplying repressive governments of the MENA region with arms will lead to a further deterioration of the overall human rights situation in the region. Concerned parties should implement these recommendations as that will strengthen the work of human rights defenders and the protection of civic space.

1) Ensure compliance with European standards through the communitarisation of the Common Position:

In view of the obvious limitations of the Common Position, its weak harmonisation at the level of Member States' national laws and the failure of the Member States to fulfil their commitments in this area, The European Union should transform its 2008 Common Position (2008/944/CFSP) into a regulation based on Article 207 TFEU, specify that the eight criteria apply to items included in the list of military equipment, related components and maintenance and service contracts¹⁴⁰.

In addition, this solution would make it possible to supplement the Common Position with a sanction mechanism when a Member State makes exports that are manifestly incompatible with the eight criteria. In this respect, the European Parliament believes that 'pooling and sharing' and strengthening cooperation on armaments policies and public procurement are only possible if strong export controls, a system of exchange of information and regular parliamentary scrutiny are put in place and if strong sanction mechanisms for non-compliance with the common rules are applicable on projects financed by the Union¹⁴¹.

But this reform is not without risk, it must be handled with caution so as not to be counterproductive from the point of view of respect for human rights and the reduction of violence. Until now, the establishment of European standards, presented as a "protection" for civil societies, has mainly served to build the opposite, i.e. to pave the way for industrial autonomy in the field of defence and for all-out exports to countries at war.

The 'communitarisation' of the Common Position must therefore necessarily be accompanied by a substantial strengthening of the Parliament's powers, which must be genuinely vested with a role of a priori control of licences, starting with exports from projects financed for the EU and extending to exports in general. Without it, such an undertaking will continue to provide the legal framework for unlimited investment in the European arms industry. With the establishment of the European Defence Fund, we have already been promised many safeguards and methods of parliamentary scrutiny that have never come. Such a project can also be used as a pretext to overcome the constraints on the arms industry at the national level, gains that have been hard-won by civil society in recent years. In the Netherlands, Sweden and Germany, the Parliament plays a significant role in the control of arms exports and civil society is regularly heard. In the absence of sufficient checks and balances, a shift in control to the EU level risks demoting democratic control over these countries' exports. That is why we believe that a communitarisation of the Common Position must necessarily lead to the creation of a real counter-power for Parliament and civil society. Otherwise, this project would be unable to achieve the expected results.

2) Strengthening convergence between States around respect for the Common Position

Extension of the role of the European Parliament

1) Creation of an independent European Arms and Dual-Use Control Authority (EACA) associated with the European Parliament, inspired by a 2015 European Parliament resolution¹⁴². It examines a priori export licences for transfers of intellectual property, parts and components and finished products from the European Defence Fund or other EU financing arrangements in the light of the Common Position. In the event of an unfavourable opinion, the export is refused.

140. <https://www.fidh.org/IMG/pdf/arms781fr.pdf>

141. Ibid

142. https://www.senato.it/japp/bgt/showdoc/17/DOSSIER/0/941304/index.html?part=dossier_dossier1-sezione_sezione2-h4_h42

For exports of sensitive technologies and/or to sensitive destinations, a college of civil society representatives is seized and issues a prior opinion. Over the past twenty years, civil society has acquired expertise in this area and participates in meetings with COARM.

The authority is also asked to resolve differences between States in terms of compliance with the Common Position. As soon as a State intends to apply for a licence for a destination that has been the subject of a notification of refusal by another country, it must refer the matter to the independent authority.

It hears representatives of the Member States and the Commission and evaluates the arms export policy of European Union members in the light of the Charter of Fundamental Rights of the European Union and the criteria of the Common Position.

2) It reports on the number of arms exports granted on a quarterly basis in statements on a website and sets guidelines in the field of arms export control.

Transparency

3) The Council of the European Union should harmonize data on arms exports in order to allow comparisons between countries.

The next report should include all data on actual exports (order intake and deliveries) but also on the details of the goods licensed and the quantities, the final consignees, and the end users.

It must also include all the details of export refusals: details by issuing country and by destination, and all the necessary information on the follow-up given to these refusals (abandonment or modification of the contract)

Refusal to export

(4) Refusals to export must be notified to the European Parliament's supervisory authority and in the annual report of the Member States. If they become aware of an export decision of a Member State that contradicts these guidelines, they are obliged to notify the supervisory authority dependent on the European Parliament. Discussions on this subject are no longer confidential in the Council of the EU and must be communicated to the public.

(5) In the event of a dispute between two States on the application of the EU Common Position related to domestic exports, the matter shall be referred to the independent supervisory authority for prior examination. Its opinion is mandatory.

6) European funding excludes any company that has entered into transactions with destinations or entities affected by an international embargo.

7) European funding excludes any company that has entered into a transaction with a country concerned by notifications of refusal issued by two different countries.

Miscellaneous

8) National parliaments must assess the impact of the Directive on intra-Community transfers on their export control regime and compliance with the Common Position on arms exports

3) Framework for the European Defence Fund

Role of Parliament

(9) The European Parliament shall regularly monitor the application of the European Defence Fund together with the Commission and independent experts.

(10) Parliament shall have access to all the documents necessary for the evaluation of calls for projects, applications from industrialists, research results, their use by Member States and associated countries, and their export plans.

(11) The European Parliament shall be notified by the Council of the EU in the event of a proposed transfer of intellectual property. It gives its prior consent to any transfer of intellectual property for projects resulting from the European Defence Fund.

(12) Parliament shall hold hearings with civil society twice a year and shall issue an annual report evaluating, on the one hand, the process of selecting beneficiaries, the ethical control of projects by the Commission and, on the other hand, the transfers of intellectual property and exports of final products from the European Defence Fund.

Applications

13) In order to prevent EU money from being used to finance projects outside the scope of the EU Charter of Fundamental Rights and the Common Position on Arms Exports, it is necessary to exclude from participation in the Funds associated countries and all legal entities under the control of a non-associated third country, whether as a recipient or a subcontractor.

Transparency

14) A dedicated online platform, pooling information from the three EU funding programmes (PADR, EDIDP, final strand of the European Defence Fund), should be set up to provide ergonomic access to all calls for projects, details and possible use of the weapons developed, the applicants, the selected companies and details on how these projects comply with the Charter of Fundamental Rights and the EU Common Position on Arms Exports. (see previous point).

(15) States shall list in a separate report the disposals of intellectual property and the exports of parts, components and the final product financed in whole or in part by the European Defence Fund.

Exports

(16) In the case of export of parts, components and the final product, the co-owners of the research and development that was used for all or part of the development shall be involved in the final export decision in the framework of COARM meetings. The final decision is in line with the most restrictive position expressed with regard to respect for the European Union's Common Position.

Annexe - Exports to the Middle East of the five main arms companies

Leonardo

Leonardo is an Italian company but also has a presence in the United Kingdom, the United States and more than a hundred countries. It specialises in the field of military electronics and also owns shares in companies that produce missiles and armoured vehicles.

Leonardo is also involved in the manufacture of the Eurofighter Typhoon, which was used by the Saudi military in the war against Yemen. The company has partnerships with Saudi Arabia, which include the supply of electronic systems for the Eurofighter Typhoon as well as the Tornado fighter jet, military drones, radios and naval systems¹⁴³. It participates in 28 projects of the European Defence Fund¹⁴⁴.

Yemen

More than 40 UAE-based ships have been equipped with integrated naval systems designed by Leonardo to manage combat, defend themselves, detect enemy radars, make accurate fires, as well as provide electronics for missiles and military radios. These vessels include the patrol boats Ghannatha, Falaj 2 and the corvette Baynunah¹⁴⁵.

The corvette Baynunah was involved in the maritime blockade of Yemen while the Ghanatta patrol boats were positioned at the Assab military base and were able to participate in the Arab Coalition's logistics, according to the note from the Directorate of Military Intelligence leaked by Disclose¹⁴⁶.

Leonardo continues to support the UAE by also participating in the program to build four Falaj 3 patrol boats.

Algeria

The Algerian armed forces use about 100 Agusta-Westland/Leonardo helicopters. A project to build a factory in conjunction with the Italian multinational is underway in Setif¹⁴⁷ allowing the production of helicopters on site.

Egypt

Leonardo signed a contract with Cairo in 2021 for the supply of 8 AW149 helicopters¹⁴⁸.

Saudi Arabia

Saudi Arabia has several AgustaWestland AW-139 helicopters¹⁴⁹. These helicopters are advertised as being dedicated to medical rescue or surveillance of oil fields, but their versatility also dedicates them to military missions.

143. <https://caat.org.uk/data/companies/leonardo/>

144. <https://opensecuritydata.eu/beneficiaries/LEONARDO-SpA?p=1&limit=25>

145. United Arab Emirates, Leonardo Group website, <https://www.leonardo.com/en/global/united-arab-emirates>

146. <https://made-in-france.disclose.ngo/fr/chapter/yemen-papers/>

147. Mohand NB, "Algeria on the verge of having its helicopter assembly plant," Express-dz.com, June 26, 2020, <https://www.express-dz.com/2020/06/26/lalgerie-sur-le-point-de-disposer-de-son-usine-de-montage-dhelicopteres/>

148. Egypt: Contract for 8 Leonardo's AW 149 helicopters, Menadefense.net, <https://www.menadefense.net/afnord/egypte-contrat-pour-8-helicopteres-aw-149-de-leonardo/>

149. Saudi THC receives first AgustaWestland AW-139, October 10, 2019, Zawya.com, <https://www.zawya.com/en/press-release/saudi-thc-receives-first-agustawestland-aw-139-qzycd82q>; <https://www.flightglobal.com/saudi-aramco-dakes-delivery-of-aw139s-for-oil-and-gas-operations/93938.article>

Airbus

Airbus, formerly known as EADS, is an important company in the field of aeronautics, which includes armaments (aircraft, helicopters, satellite technologies). The company is headquartered in France and is mainly located in Germany, as well as in Spain and the United Kingdom. It participates in 31 European Defence Fund projects¹⁵⁰.

Saudi Arabia/United Arab Emirates/Yemen

Airbus has sold 36 H125 helicopters to Saudi Arabia¹⁵¹. Intended for the development of tourism and aviation¹⁵², they are easily modular for use during security or military operations.

Two transport cargo planes were supplied to Riyadh in 2015 and 2017 and two military surveillance aircrafts were delivered to Saudi Arabia in 2015 and 2018¹⁵³.

AS-532 A2 Cougar transport and attack helicopters have been mobilized in Yemen, according to the note from the Directorate of Military Intelligence¹⁵⁴. According to our 2018 report¹⁵⁵, five transport helicopters were mobilized in a rescue operation involving Saudi fighter pilots¹⁵⁶. In June 2023, Scopa Industries signed an agreement with Airbus to produce civil and military helicopters in the Kingdom¹⁵⁷.

The company is also involved in the production of Eurofighter Typhoon fighter jets ceded to Saudi Arabia and involved in the bombing of Yemen.

Airbus 330 MRTT tanker aircraft have been used in Yemen on numerous occasions to refuel fighter jets. According to industry professionals, as of April 2017, two of them were deployed in Yemen by Saudi Arabia; at least one during the conflict by the United Arab Emirates¹⁵⁸.

Saudi Arabia has six, the Emirates three but acquired two more in 2021¹⁵⁹.

The Cobra radar system made in partnership with Thales, Lockheed Martin (United States) has been deployed on the Saudi-Yemeni border, according to the note from the Directorate of Military Intelligence disclosed by Disclose.

In addition, Airbus DRAC mini-surveillance drones have been found in Yemen shot down by Houthi forces, the first two in Yemen's northern Jawf province on February 26, 2017, the third in Saada (northwest) during the conflict¹⁶⁰.

In 2020, Airbus signed a contract for the sale of a satellite with the Saudi telecommunications firm Arabsat¹⁶¹, on which military options can be installed: *"In addition to military satellites, there are civilian observation satellites that are used militarily and on which modules are being developed for the armed forces,"* says a professional in the sector to the Armaments Observatory¹⁶².

150. <https://opensecuritydata.eu/beneficiaries/groups/AIRBUS?p=3&limit=25>

151. <https://www.aerobuzz.fr/breves-helicoptere/la-rabie-saoudite-commande-10-helicopteres-airbus-h125/>;
<https://www.aerobuzz.fr/breves-helicoptere/la-rabie-saoudite-commande-26-helicopteres-airbus/>

152. <https://investir.lesechos.fr/actu-des-valeurs/la-vie-des-actions/airbus-larabie-saoudite-commande-10-helicopteres-h125-1838470>

153. SIPRI database.

154. <https://disclose.ngo/fr/article/revelations-sur-des-ventes-darmes-illicites-a-larabie-saoudite>

155. <https://www.obsarm.info/spip.php?article303>

156. https://www.fidh.org/IMG/pdf/fidh_yemen_final_report.pdf

157. <https://www.arabnews.fr/node/394246/%C3%A9conomie>

158. https://www.fidh.org/IMG/pdf/fidh_yemen_final_report.pdf

159. <https://www.vol-avion-chasse.com/les-eau-commandent-dautres-avions-ravitailleurs-multiroles-europeens/>

160. https://www.fidh.org/IMG/pdf/fidh_yemen_final_report.pdf

161. <https://www.arabnews.fr/node/8191/%C3%A9conomie>

162. <https://www.obsarm.info/spip.php?article560>

The company has also supplied a satellite to the United Arab Emirates. The Airbus-Thales satellite is dedicated to intelligence and surveillance, and the negotiations related to its supply coincide with the preparation of the war in Yemen. France has also committed to provide Abu Dhabi with images of the Yemeni theatre of operations until the satellite is delivered. The satellite, which was put into orbit at the end of 2020¹⁶³, was sold *“without a clause of use”*, which theoretically allows the Emirates to provide images to other countries in the Middle East or to Russia, according to former LREM MP Sébastien Nadot who specialises in arms sales¹⁶⁴.

United Arab Emirates

12 anti-ship helicopters were transferred to the UAE in 2021¹⁶⁵

Egypt

Egypt has 24 Airbus C295 troop carriers¹⁶⁶.

France is still negotiating with Egypt the sale of a satellite dedicated to military intelligence, and border surveillance but also operational for “urban crowd management”.¹⁶⁷

Indra

Indra is a Spanish company specialising in IT and electronics that is not only positioned in the military sector like its competitors. It participates in 35 European Defence Fund projects¹⁶⁸.

The Spanish company equips the computer detection and communication systems of the five corvettes sold to Saudi Arabia and currently under construction in Spain¹⁶⁹. It will likely supply new systems to the five new frigates that Madrid is promising Riyadh in a memorandum of understanding signed in December 2022¹⁷⁰.

The C295 aircraft sold by Airbus to Saudi Arabia incorporate Indra systems technologies¹⁷¹. Indra controls 80% of the missile company Inmize systems linked to MBDA, the European missile manufacturer.

Safran

Safran is a French company specializing in military electronics, but also active in military aeronautics and missile manufacturing. It participates in 16 European Defence Fund projects¹⁷².

The company is in charge of the engines of the Egyptian Dassault Alpha Jets, Mirage and Rafale fighter jets, as well as the Emirati and Qatari aircraft (Mirage and Rafale).¹⁷³

Safran is equipping the Emirati corvettes Baynunah¹⁷⁴ and Gowind manufactured by Naval Group with Sigma 40 navigation systems.

163. <https://www.thalesgroup.com/fr/monde/espace/press-release/le-satellite-falconeye-des-emirats-arabes-unis-lance-succes>

164. https://twitter.com/Sebastien_Nadot/status/1646536121072119809

165. SIPRI Database

166. <https://www.airbus.com/en/newsroom/press-releases/2021-04-airbus-signs-major-integrated-support-contract-with-egypt-for-c295>

167. <https://www.africaintelligence.fr/afrique-du-nord/2023/06/13/defile-d-officiels-egyptiens-a-paris-sur-fond-de-contrat-militaire,109992624-art>

168. <https://opensecuritydata.eu/beneficiaries/groups/INDRA?p=2&limit=25>

169. <https://www.defensa.com/espana/navantia-integrara-sistemas-guerra-electronica-indra-corbetas>

170. <https://www.latribune.fr/entreprises-finance/industrie/aeronautique-defense/nouvau-succes-de-navantia-en-arabie-saoudite-l-enorme-claque-pour-la-france-et-naval-group-942927.html>

171. https://www.indracompany.com/sites/default/files/220531_pr_indra_tigre_mkiii.pdf;
<https://centredelas.org/actualitat/indra-en-el-consorcio-militar-espanol-pere-ortega/?lang=es>

172. <https://opensecuritydata.eu/beneficiaries/groups/THALES?p=7&limit=25>

173. <https://www.safran-group.com/fr/produits-services/m88-performances-fiabilite-operation>;
<https://www.senat.fr/rap/r22-880/r22-880-syn.pdf>

174. <https://www.meretmarine.com/fr/defense/safran-lance-de-nouvelles-centrales-inertielles>

Sigma 30 systems are also present in the Caesar guns deployed by Saudi Arabia in Yemen.

Safran also equips the Egyptian Fremm frigates.

In view of certain indications of use in Yemen, there is a high probability that the French company's Sperwer/SDTI surveillance drones were exported to the Arab Coalition and used in Yemen.¹⁷⁵

In 2011, Safran participated in the refurbishment of the Emirati BMP-3s, which are among the most commonly seen light armoured vehicles in Yemen. Russia supplied 250 of these light armoured vehicles to the Emirates between 1992 and 1994. Their renovations are carried out in the Emirates¹⁷⁶. The company delivered 500 missiles for ground strikes to Egypt from 2016 to 2019.

Safran also supplies the engines and navigation units for the Mirage 2000 and Rafale aircraft sold in the United Arab Emirates and Egypt.

The company produced the sighting systems for Russian Ka-52 helicopters, deliveries to Egypt began in 2017¹⁷⁷.

Algeria

Russian Mig 29M aircraft delivered to Algeria are equipped with electronic systems designed by the firm¹⁷⁸.

Thales

The French company Thales specialises in military electronics. It is present in some sixty countries and participates in 60 European Defence Fund projects¹⁷⁹.

Yemen

France supplied Saudi Arabia with Thales Damocles XF pods to guide the bombs, as well as Thales Crotale Shahine anti-aircraft systems to equip the frigate AlMaqqa.

During the attack on the frigate AlMaqqa by Houthi forces on 30 January 2017, it was equipped with Thales' Crotale Shahine anti-aircraft system.

Thales Mark 3 Crotale surface-to-air systems were also provided for "testing" during the conflict.

Experts we consulted identified a 15-year-old Thales radio in photos of a Chinese armed drone, the Wing-Loong, which crashed in Yemen. It is likely that this radio was integrated into the drone by an Emirati or Saudi engineer. It is unclear whether Thales has agreed to integrate its system on a Chinese-made drone, but according to one expert interviewed, "Thales just explained and trained the customer at the time of the sale, and certainly accompanied the initial installation of the radio. In the 1980s, the major French arms companies were maintaining and upgrading the equipment they sold. This is no longer the case. Countries such as Saudi Arabia and the United Arab Emirates have acquired technological expertise in the products they buy," he explains.

In 2016, Thales South Africa supplied sighting devices for some armoured vehicles and artillery systems, which are used in Yemen by militias backed by the Saudi-Emirati coalition.

In 2017, Thales' Dutch subsidiary supplied firing systems for the Aialah ships, which were detected at a military base in Eritrea for projection to Yemen.

The French company also equips the United Arab Emirates' Mirage fighter jets with the Damocles laser sighting pod¹⁸⁰.

175. https://www.fidh.org/IMG/pdf/fidh_yemen_final_report.pdf

176. <https://www.obsarm.info/spip.php?article370>

177. <https://www.obsarm.info/spip.php?article560>

178. <https://www.africaintelligence.fr/afrique-du-nord/2022/03/15/les-contrats-militaires-de-thales-et-safran-plombes-par-la-guerre-en-ukraine,109739931-gra>

179. <https://opensecuritydata.eu/beneficiaries/groups/THALES?p=7&limit=25>

180. <https://www.timesaerospace.aero/features/defence/pod-cast>

Algeria

Russian Mig 29M aircraft delivered to Algeria are equipped with electronic systems designed by the firm. These systems would be absent from the devices supplied after Moscow's invasion of Ukraine¹⁸¹.

The Algerian T-90 tanks are equipped with thermal cameras supplied by Thales¹⁸².

Egypt

Thales' subsidiary based in the Netherlands is equipping the four German Meko frigates currently being delivered to Egypt with electronic combat systems¹⁸³.

181. <https://www.africaintelligence.fr/afrique-du-nord/2022/03/15/les-contrats-militaires-de-thales-et-safran-plombes-par-la-guerre-en-ukraine,109739931-gra>

182. *Ibid.*

183. <https://stopwapenhandel.org/mega-egyptian-order-for-dutch-branch-of-french-thales/>; <https://www.naval-technology.com/news/egyptian-navy-welcomes-its-second-meko-frigate/>



The Gulf Center for Human Rights is an independent, non-profit, non-governmental organization that provides support and protection to human rights defenders in the Gulf region and neighbouring countries to promote human rights, including but not limited to freedom of expression, freedom of the press, of association and peaceful assembly. The Gulf Center for Human Rights primarily documents the environment of human rights defenders in the Gulf region, particularly in Saudi Arabia, Oman, Bahrain, Kuwait, Iran, Iraq, Qatar, and the United Arab Emirates. It also carries out activities in neighbouring countries such as Yemen, Syria, Jordan, and Lebanon. The scope and areas of work are reviewed periodically. The centre was established on April 6, 2011.

The centre's vision is to create vibrant civic spaces in the Gulf region and neighbouring countries where human rights are fully respected, and in which human rights defenders, including journalists, bloggers and internet activists, can operate freely without any repression or fear.



Mwatana is an independent Yemeni human rights organization established in 2007. Even though the former regime of President Ali Abdullah Saleh refused to provide the organization with permission to carry out its work, Mwatana was able to implement its activities and participate with other parties in advocacy campaigns against human rights violations in various parts of Yemen. In April 2013, Mwatana finally obtained its permit and was able to expand its institutional capacity and scale up its activities. Mwatana is currently documenting violations committed by parties to the conflict and various authorities and is publishing the results of its investigations in multiple publications. Mwatana also provides legal support and advice to victims of arbitrary detention and enforced disappearance, in addition to implementing activities and advocacy campaigns at the international level and with decision-makers. Mwatana also works to ensure accountability for offenders and justice for victims and to build capacity in the field of human rights. In 2018, Mwatana's work was recognized with the Baldwin Award. Human Rights First also announced the awarding of the 2018 Roger N. Baldwin Medal of Freedom to Mwatana. In the same year, the 10th Hrant Dink International Prize was awarded to Mwatana for describing to the world the human rights situation in Yemen and for fighting against human rights violations in the country. In 2019, Time magazine named Radhya Almutawakel (President of the organization) one of its 100 most influential people in the world. In February 2021, Mwatana and the Campaign Against the Arms Trade Treaty (CAAT) were nominated for the 2021 Nobel Peace Prize.



The Observatoire des Armements is an independent centre of expertise created in 1984 in Lyon (France). Its objective is to highlight and promote the work of civil society on defence and security issues with a view to progressive demilitarisation. The Observatory is active in two priority areas: transfers and the armaments and security industry; nuclear weapons and their consequences. It publishes studies and a newsletter, Damocles.

Keep your eyes open

fidh

Establishing the facts - Investigative and trial observation missions

Supporting civil society - Training and exchange

Mobilizing the international community - Advocacy before intergovernmental bodies

Informing and reporting - Mobilizing public opinion

For FIDH, transforming societies relies on the work of local actors.

The Worldwide Movement for Human Rights acts at national, regional and international levels in support of its member and partner organizations to address human rights abuses and consolidate democratic processes. Its work is directed at States and those in power, such as armed opposition groups and multinational corporations.

Its primary beneficiaries are national human rights organizations who are members of the Movement, and through them, the victims of human rights violations. FIDH also cooperates with other local partner organizations and actors of change.

Director of publication:

Alice Mogwe

Editor:

Éléonore Morel

Authors:

Tony Fortin,
Observatoire de l'armement with the contribution of Yosra Frawes

Editing and coordination:

Anaya Finalé et
Mouna Dachri

Design:

FIDH/CB

fidh

CONTACT

FIDH

17, passage de la Main d'Or
75011 Paris - France

Tel: (33-1) 43 55 25 18

www.fidh.org

Twitter: @fidh_en / fidh_fr / fidh_es

Facebook:

<https://www.facebook.com/FIDH.HumanRights/>



FIDH is an
international human rights
NGO
federating 188 organizations
from 116 countries

fidh

ABOUT FIDH

FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

A broad mandate

FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

A universal movement

FIDH was established in 1922, and today unites 188 member organizations in 116 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

An independent organization

Like its member organizations, FIDH is not linked to any party or religion and is independent of all governments.