

# Tricked by transparency: Security made in Europe

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## ABSTRACT

Transparency is generally recognised as an effective policy instrument to increase accountability and fight misconduct. To further our understanding of transparency impact in arms exports, it is thus useful to investigate the EU transparency framework, and analyse the extent member states are adhering to it. This research does it by examining contribution of France, Germany, and the UK to the Annual Reports in relation to their arms exports to the Middle East during 2010-2016. The results indicate that not all studied member states provide full information. Moreover, they intensified export practices despite the growth of military conflicts in the Middle East.

## Keywords

EU arms exports, transparency, security, the Middle East.

## INTRODUCTION

Since the end of WWII, the arms proliferation has been under rigorous scrutiny due to its impact on global peace and stability. The fact that the volume of international transfers of major weapons has been growing steadily since 2003 indicates lack of efficiency of the arms control measures (Fleurant, Kuimova, Tian, Wezeman & Wezeman, 2018). Considering that among the top ten largest arms exporters in the period between 2013 and 2017, six are member states of the EU (Fleurant et al., 2018), cautious questions can be raised to the EU, which is the only international institution with a legally binding agreement that regulates exports of conventional arms.

In 2008, the EU adopted the “Common Position 2008/944/CFSP” that succeeded the 1998 EU “Code of Conduct on Arms Exports,” which was the first attempt to define common rules for military exports. Like its predecessor, the Common Position aims to strengthen and harmonize arms exports practices by providing guiding principles. The main difference between the two policies, however, is that the Common Position is a legally binding agreement. It aims to set high common standards and restraints in arms trade by facilitating the information exchange “with a view to achieving greater transparency” (The Council, 2008, p.99). This wording suggests that the EU strives for greater responsibility in arms exports, and to use transparency as a tool to increase accountability, enhance control, and build confidence in the compliance of member states.

The conduct of EU member states, nevertheless, has already been questioned in connection with their arms export practices prior to the Arab Spring (Bromley, 2012; Hansen & Marsh, 2015; Stavrianakis, 2017). This criticism notwithstanding, in 2012, the Council of the EU reviewed this policy and its implementation, and concluded that “provisions of the Common Position, and the instruments it provides for, continue to properly serve the objectives set in 2008 and to provide a solid basis for the coordination of Member States’ arms export policies” (The Council, 2012). Therefore, based on the Council’s conclusions we might anticipate an

effective regulation of the EU arms exports.

But how substantial is the control in the EU arms exports? In order to find this out, I investigate the transparency framework developed by the Common Position, and analyse the extent to which France, Germany, and the UK are adhering to it. This research is thus guided by the following research question – to what extent did France, Germany, and the UK comply with the aims of achieving greater transparency stated in the Common Position in relation to their arms exports to the Middle East during 2010-2016?

## TRANSPARENCY AS A NORM IN ARMS CONTROL

Transparency has become a buzzword that overwhelmed political rhetoric and seems to be a solution to every issue. This phenomenon can be explained by the fact that “transparency” has explicitly positive connotations, and is associated with purity and clarity (Bessire, 2005). As the opposite of secrecy (Florini, 2000), transparency is defined as “something wider than access to (government) information” (Heald, 2006, p.26). In this definition, transparency has a strong connection to information, access to which is perceived as a powerful regulatory instrument (Bessire, 2005). Transparency thus can be seen as a genuinely democratic tool that empowers a broad audience with knowledge.

As a policy instrument, transparency primarily facilitates policy regulation and evaluation. The principal-agent model demonstrates the regulatory effect of transparency. The principal uses transparency as a tool to ensure that the agent does not abuse their power, and acts correctly on behalf of the principle (Hansen, Christensen & Flyverbom, 2015). This refers to state actors who are in charge of policy implementation and are observed by the public. As an outcome of such public monitoring, transparency eliminates information asymmetry that can be used by the agents to promote their interests. Transparency thus prevents misconduct by ensuring that state actors do not abuse their power. Another vital function is that transparency facilitates policy evaluation by providing necessary information about the actions of the actors responsible for policy implementation. Consequently, transparency is an effective instrument to improve policy implementation by “holding public officials accountable, reducing fraud and fighting corruption” (Hansen et al., 2015, p.118; cf. Hood & Heald, 2006).

As a result, international regulations are actively promoting transparency as an instrument to increase effectiveness of policy measures (Davis, 2002). Likewise, in the EU arms control, transparency is a recommended method. As evidence of that the Common Position aims to achieve “greater transparency” (The Council, 2008, p.99) by facilitating information exchange and providing annual reports on arms exports to review the conduct of member states. Based on this, transparency presents a recognised norm and a “condition for regulation” in the EU arms control (Surry, 2006, p.6).

## TRANSPARENCY FRAMEWORK IN THE EU ARMS EXPORTS CONTROL

The essence of the Common Position is constituted by eight guiding principles that should be taken into consideration by member states when deciding on the arms exports. By setting these criteria, the Common Position aims among the other goals to ensure that member states prevent arms exports, which “might be used for internal repression or international aggression or contribute to regional instability” (The Council, 2008, p.99). To facilitate consistency of policy implementation the User’s Guide to the Common Position (The Council, 2015) clarifies the arms exports licensing process and provides best practices of applying the guiding principles.

To increase accountability in arms control and ensure correct implementation of the guiding principles mentioned above, the Common Position seeks to achieve transparency by “strengthening the exchange of relevant information” (The Council, 2008, p.99). For this purpose the User’s Guide provides specific instructions on transparency (The Council, 2015). According to the User’s Guide, member states should send annual reports on their arms export activities to the European External Action Service (EEAS), which is the EU diplomatic service and foreign and security ministry.

The User’s Guide specifies that such report should include the number and value of export licences granted to each destination, the value of actual exports, the number of denials for every destination including reasoning, and the number of consultations received and initiated. Information provided by the member states to the EEAS is summarised and then published in the Annual Reports. Consequently, the Annual Report is the main transparency tool that provides information on the member states’ arms export practices.

### HOW TO ASSESS THE QUALITY OF TRANSPARENCY

In order to develop a systematic framework to assess the quality of transparency, six assessment parameters developed by Bauer were taken into consideration. These are availability, reliability, comprehensiveness, comparability, disaggregation, and relevance (in Surry, 2006, p.1). These parameters were developed to address transparency as a broad policy instrument. Taking into account that member states have a limited influence over the aspects, such as availability and methodology of the data presented in the Annual Report, the analysis will look into the peculiarities of the transparency system, which are in the direct responsibility of member states. This initially refers to the parameters of comprehensiveness and disaggregation, which describe type, quantity and the level of detail.

### ANALYSIS OF THE EU TRANSPARENCY FRAMEWORK

In light of the EU transparency framework, and the parameters to assess the quality of transparency outlined in the previous section, it is now possible to investigate the transparency framework in the context of EU arms exports control.

#### Type, quantity, and level of detail

This subsection will look into the content of Annual Reports by addressing the parameters of comprehensiveness and disaggregation. This is particularly valuable in order to define the scope member states can contribute to the transparency framework. Eventually, this will help to assess the compliance of France, Germany, and the UK

in the following subsection.

According to the Common Position, member states should annually submit reports with information on the number and value of export licences granted to each destination, value of actual exports, number of denials for every destination including reasoning, and number of consultations received and initiated. However, not all information provided to the EEAS is made available for the public through Annual Reports. An analysis of information that is required for submission and that was found in the Annual Reports is given in Table 1.

Table 1. Transparency framework of the Common Position

Information from a member state on arms exports	Should be provided to the EEAS	Found in EU Annual Reports
Number of export licences granted to each destination, broken down by Military List category (if available)	If available	If available
Value of export licences granted to each destination, broken down by Military List category (if available)	If available	If available
Value of actual exports to each destination, broken down by Military List category (if available)	If available	If available
Number of denials issued for each destination, broken down by Military List category	Included	Not included
Number of times each criterion of the Common Position is used for each destination, broken down by Military List category	Included	Not included
Total EU number of licence refusals to each destination	Can be drawn based on the data provided	Included
Criteria numbers on which refusals are based to each destination	Can be drawn based on the data provided	Included
Number of consultations initiated	Included	Included
Number of consultations received	Included	Included
Address of national website for annual report on arms exports.	Included	Included

(Source: Elaboration of data from the EU Annual Reports on arms export, 2011-2018)

Remarkably, in the User’s Guide, the most significant information regarding the value of the actual arms exports and licensing has a note “if available” without further explanation what this means. Moreover, the Common Position does not specify if there are any sanctions in case member states fail to report. It remains thus unclear when non-submitting is caused by the unavailability of the information, or whether the decision on disclosure is left at the discretion of member states.

Having defined the type and quantity of information, we can examine the level of detail. In Annual Reports, information on arms exports is required to be specified by the standardised military list and destinations. Thus, one can look at the value of arms exports, number of approved licences, their value, and type of arms that member states export into each country.

The Annual Reports, however, provide aggregated data with limited level of detail. For example, information on the export licences denials and their reasons provided in aggregated form for every destination. It is thus unclear which member state refused an export licence and based on what criteria this decision was made. Furthermore, data on information exchange between member states through the consultancy procedure is also limited. The number of

consultations is given in total for every member state, and as a separate list for every destination, and not supported by further detail. As a result, the reason why a consultation was needed and its outcome are not explained.

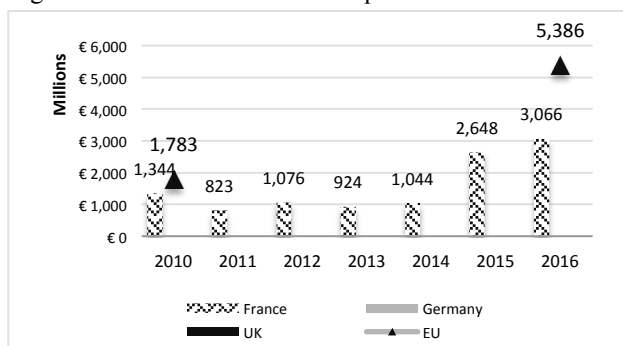
To conclude, there are uncertainties in relation to what kind of information member states are obliged to provide and whether there are any sanctions in case of noncompliance. In order to assess the efficiency of the Common position, the next subsection will examine how France, Germany, and the UK contribute to the transparency framework.

### France, Germany, and the UK: Contribution to transparency framework

The previous section outlined the main features of the transparency framework, and analysed the scope of information that member states should report. Therefore, the compliance of France, Germany, and the UK with the transparency goal will be estimated based on the data in the Annual Reports regarding their arms exports to the Middle East in the period of 2010-2016.

In the Annual Reports, the most valuable information refers to the value of the actual arms exported by member states. Figure 1 provides the available data on this parameter for the studied countries and the EU total.

Figure 1. Value of actual arms exports to the Middle East



(Source: Analysis of data from the EU Annual Report on arms export, 2011-2018)

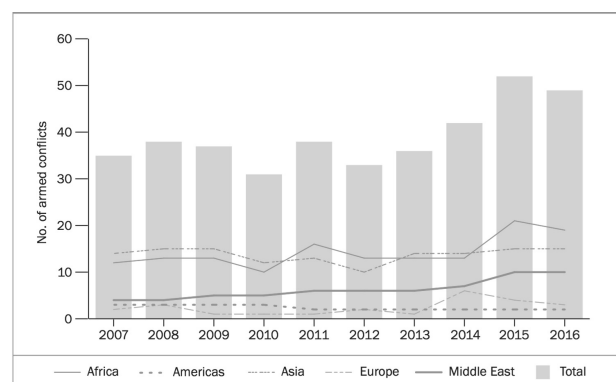
It is evident that there is no consistency in data over the studied period. In particular, information on the total value of EU arms export is given only for two years, 2010 and 2016. And there is no clarification why this information is missing for other periods. One possible explanation can be that member states provide incomplete information on their export practices (Bauer et al., 2017). In addition, there is no data on Germany and the UK in relation to the value of their actual export to the Middle East. In contrast, information on the French exports is available for the whole period.

Having analysed the available data, we observe the stable growth of arms exports to the Middle East. Comparing the EU total arms exports at the beginning and end of the studied period, a growth of 202% is identified. Moreover, based on the data provided, it is evident that France is accountable for a considerable part of the EU arms exports to the Middle East. Figure 1 demonstrates that the French arms exports are stable in 2010-2014, after which it grows 154% in 2015 and then 16% in 2016. In the EU total arms exports, the share of the French arms exports, however, declines from 75% to 57% comparing the beginning and the end of the studied period. Because of the missing data and lacking explanation, it is unclear whether Germany and the UK failed to report their data,

or these countries they did not export any arms to the Middle East in the studied period. Most important, it is not explained how the total value for EU was calculated considering incomplete data.

Notably, the growth of French arms exports to the Middle East in 2015 coincides with an intensification of military conflicts in this region, which is evident based on the information presented in Figure 2. It can be concluded that despite of the growth of armed conflicts, EU member states continued to export arms to the Middle East.

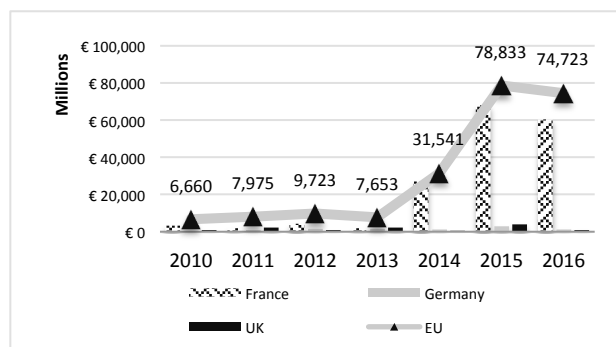
Figure 2. Regional distribution and total number of armed conflicts



(Source: SIPRI, 2017, p.3)

Another valuable information in arms control refers to the export licences, which is summarised in Figure 3. An approved export licence presents an authorisation in accordance with EU standards in arms control. Thus, the value of the approved license will eventually convert into the real arms exports.

Figure 3. Value of issued export licences to the Middle East



(Source: Analysis of data from the EU Annual Report on arms export, 2011-2018)

In the observed period, all studied countries reported the value of approved export licences to the Middle East. It can be noted that the total value of issued licences indicates a stable growth, starting at the beginning of the period with an insignificant decrease in 2013. In 2014, it dramatically increases fourfold and continues to grow. The value of issued export licences reaches its peak in 2015 and then demonstrates a decline, which is, nonetheless, almost 10 times higher than in 2013.

Based on this analysis, France is the main contributor to the growth of the value of the approved export licences. Most importantly, the information on issued exports licences confirms that Germany and the UK authorise arms exports to the Middle East. They do not, however, report on their actual arms exports as it is seen from Figure 1. This fact presents strong evidence that Germany and the UK do not comply with the transparency goals defined in the Common Position.

## CONCLUSION

This paper has analysed to what extent France, Germany, and the UK comply with the aims of achieving greater transparency defined by the EU Common Position. The goal of the study was to investigate the efficiency of the Common Position, which is the unique legally binding policy in the field of conventional arms exports control. The analysis was preformed based on the information on the arms export practices of France, Germany, and the UK to the Middle East during 2010-2016. Taking into account the growing arms proliferation this is vital to explore if the Common Position is an effective regulation. The research was limited to three EU member states: France, Germany, and the UK. Their arms export practices are of high importance since these countries, as the top EU and world arms exporters, set the pattern of behaviour for other member states and the international community.

The main finding of this study is that despite increased transparency and facilitated information exchange, the studied member states do not contribute fully to the main transparency tool, the Annual Reports. France is the only one among the studied countries that presents its data on the value of the actual arms exports. Another important finding is that despite multiple military conflicts in the Middle East, member states did not reduce their arms exports. On the contrary, they intensified exports and even the migrant crisis in 2015 did not affect their practices. Finally, the Common Position does not define any sanctions in relation to members state in case they do not comply with its fundamental principals.

In view of these findings, it can be concluded that the Common Position, although it had introduced the transparency framework, proved to be unable to set "high common standards" in arms exports (The Council, 2015, p.99). Most importantly, it failed to restrain export practices to the zones that might be affected by military conflicts.

The findings revealed an urgent necessity to strengthen the regulation of the EU arms exports. The implementation of the guiding criteria of the Common Position should be facilitated, while its practical application made fully available for the public. Another necessary measure should be increased transparency in the reporting on the EU and national levels. Member states should be obliged to provide detailed information not only on licencing, but also on the actual arms exports. In addition, the Common Position should introduce sanctions to ensure compliance of EU member states with the policy. As a result, such measures should help to hinder the arms proliferation and reduce the likelihood of a future global conflict.

## ROLE OF THE STUDENT

Iana Gein was an undergraduate student working under the supervision of Dr. Nico Randeraad when the research in this report was performed. The topic was proposed by

the student. The design of the research, the analysis, the processing of the results as well formulation of the conclusions and the writing were done by the student.

## REFERENCES

1. Bauer, S., Bromley, M., Maletta, G. (2017). The implementation of the EU arms export control system. *The European Parliament's Committee on Security and Defence*.
2. Bessire, D. (2005). Transparency: a two-way mirror? *International Journal of Social Economics*, 32(5), 424-428.
3. Bromley, M. (2012). The review of the EU Common Position on Arms Exports: prospects for strengthened control. *Non-Proliferation Papers no 7*, EU Non-Proliferation Consortium.
4. The Council of the EU (2008). Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment.
5. The Council of the EU (2012). Council conclusions on the review of Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment. Retrieved from [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/foraff/133569.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/133569.pdf)
6. The Council of the EU (2015). User's Guide to Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment. *Official Journal of the European Union*..
7. Davis, I., (2002). *The Regulation of Arms and Dual-Use Exports*. SIPRI. Oxford University Press.
8. Fleurant, A., Kuimova, A., Tian, N., Wezeman, P., Wezeman, S. (2018). Trends in international arms transfers, 2017. *SIPRI Fact Sheet*. Retrieved from <https://www.sipri.org/publications/2018/sipri-fact-sheets/trends-international-arms-transfers-2017>
9. Florini, A. (2000). The end of secrecy, eds B. I. Finel and K. M. Lord. *Power and Conflict in the Age of Transparency*. Palgrave: New York.
10. Hansen, H., Christensen, L., Flyverbom, M. (2015). Introduction: Logics of transparency in late modernity: Paradoxes, mediation and governance. *European Journal of social Theory*, 18(2), 117-131.
11. Hansen, S. (2016). Taking ambiguity seriously: Explaining the indeterminacy of the European Union conventional arms export control regime. *European Journal of International Relations*, 22(1), 192-216.
12. Hansen, S., Marsh, N. (2015). Normative power and organized hypocrisy: European Union member states' arms export to Libya. *European Security*, 24 (2), 264-286.
13. Hood, C., Heald, D. (2006). *Transparency: The Key to Better Governance?* UK: Oxford University Press.
14. Stockholm International Peace Research Institute, (2017). Armaments, disarmaments and international security. *SIPRI Yearbook 2017*. Retrieved from <https://www.sipri.org/yearbook/2017>
15. Stavrianakis, A. (2017). Playing with Words While Yemen Burns: Managing Criticism of UK Arms Sales to Saudi Arabia. *Global Policy*, 8(4), 563-568.
16. Surry, E. (2006). Transparency in the Arms Industry. *SIPRI Policy Paper No. 12*. Stockholm International Peace Research Institute.