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Answer given by High Representative/Vice-President Kallas
on behalf of the European Commission
(13.8.2025)

The control on arms export by Member States is subject to national legislation, the Council Common Position 2008/944/CFSP¹ and the Arms Trade Treaty² (ATT). The authorities of Member States take final decision on whether to authorise or deny an individual export or transit license of military equipment³, in accordance with that legal framework. Under the Common Position, each Member State is solely responsible for assessing arms export licences against eight criteria, including Criterion 2 and 6, and to ensure compliance with applicable laws.

Under the abovementioned legal framework, the Commission does not have the competence to assess whether individual licenses by Member States are compatible with the Common Position, nor to recommend or enforce a formal review of licences under its Article 5.

The Common Position applies to all exports of military technology and equipment originating from Member States, irrespective of them taking place under military agreements or not. In the context of military arrangements or transfers of technology from third countries, under Articles 21 and 24 of the Treaty on the European Union and Article 205 of the Treaty on the Functioning of the European Union, Member States are required to ensure that their actions in external relations are consistent with the principles and objectives of the EU's external action. At the same time, there is no legal obligation in the Common Position itself or elsewhere to apply its criteria, directly or *mutatis mutandis*, to cases other than those mentioned in its Article 6 (dual-use goods and technology), nor to goods imported from a third country to a Member State.

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02008E0944-20250415>.

² <https://thearmstradetreaty.org/treaty-text.html?templateId=209884>.

³ The EU Common Military List (<https://eur-lex.europa.eu/eli/C/2025/1499/oj/eng>) which also covers all items to which the ATT applies.