

OPINION ON THE IMPLEMENTATION OF THE ARMS TRADE TREATY AND FOR ENHANCED ACCOUNTABILITY IN ARMS TRANSFERS

EXECUTIVE SUMMARY

20th November 2025



The Opinion on the implementation of the Arms Trade Treaty and for enhanced accountability in arms transfers (A - 2025 - 10) was adopted during the Plenary Assembly of the 20th of November 2025. (Adoption by unanimous vote)

[The full text is available on the CNCDH's website.](#)

The Arms Trade Treaty (ATT)

As the first treaty aimed at regulating the international trade in conventional arms, preventing their illicit trafficking, and diversion, the Arms Trade Treaty (ATT) seeks to reduce human suffering by contributing to the ending of serious violations of international human rights law and international humanitarian law resulting from the use of arms, to promote transparency and to contribute to international peace and security. Among the obligations it imposes, the ATT:

- requires States to subject transfers (export, import, transit, trans-shipment, brokering) of eight categories of conventional arms, their ammunition, parts and components, to the issuance of a prior authorization;
- prohibits these transfers if they would result in a violation of sanctions or other coercive measures imposed by the United Nations Security Council or in a State's failure to comply with its international obligations, or if they would be used in the commission of international crimes, namely genocide, crimes against humanity and war crimes;
- subjects non-prohibited export of arms, ammunition, parts and components to a set of criteria: States have an obligation to assess whether there is an overriding risk that such export would contribute to or undermine peace and security, or serve to commit or facilitate the commission of crimes or offenses, particularly serious violations of international humanitarian law and international human rights law. In doing so, States must particularly consider the risk that conventional arms could be used to commit or facilitate serious acts of gender-based violence;
- requires States to take measures to combat diversion, to ensure that arms are not used by an unauthorized end user or for an unauthorized end use;
- contains a series of obligations regarding reporting, international cooperation and assistance.

At the European level, the export of 22 categories of military technology and equipment is governed by the European Union's Common Position 2008/944/CFSP, most recently revised in 2025. This common position defines eight criteria against which Member States must assess export authorizations requests, among which are the respect for human rights and international humanitarian law.

Terminology Clarifications: The term "international arms transfer" is used in this Opinion in the sense of the practice within the framework of the United Nations Register of Conventional Arms, which primarily addresses the movement of arms to or from the national territory involving a transfer of ownership and control. The French National Consultative Commission on Human Rights (CNCDH) focuses here more specifically on international transfers of the categories of arms covered by the ATT (eight), supplemented by the EU Common Military List (22 items), as well as by the categories of arms subject in France to restrictions or special procedures for import or export outside the EU territory (referred to as "war materials and assimilated equipment") or for transfer within the EU ("defence-related products"). These regulations, with different scopes of application, cover both complete weapon systems (armored vehicles, aircraft, tanks, or military ships) and conventional arms and their ammunition, parts and components, as well as military technologies or, in France, operational training. Focused on the implementation of the ATT and of the EU Common Position 2008/944/CFSP (as amended), this Opinion does not address other categories of goods subject to control regimes, such as firearms and ammunition for civilian use or so-called dual-use goods, which are subject to different legal regimes, although they also raise issues related to compliance with international human rights law and international humanitarian law.

Over a decade after its entry into force, the Treaty has recorded significant progress. Yet the humanitarian consequences linked to arms transfers (to or from States parties) remain tragically visible on the ground and are particularly acute in current armed conflicts, which unfold within a tense geopolitical context and a beleaguered multilateralism that encourages an arms race. These consequences do not result solely from illicit trafficking or diversion, but also from authorized transfers, and sometimes involve private companies or intermediaries. Moreover, the structural opacity of the arms sector limits external oversight and fuels concern.

In this context, France, the world's second-largest arms exporter, bears a renewed responsibility. With a longstanding and reputedly robust national control regime, France has been strongly committed to the adoption of the ATT and supports its implementation, as well as that of the EU Common Position 2008/944/CFSP governing the exports of its Member States. However, the CNCDH identifies a series of gaps in the implementation of France's international obligations and, in a context that promotes the idea of a "war economy" and emphasizes the strengthening of the defence industry, warns of the need to enhance transparency and accountability. Giving the ATT its full effectiveness requires improving the integration of international obligations governing arms transfers into national law and practice (Part 1), establishing genuine parliamentary and judicial oversight (Part 3), as well as strengthening corporate accountability in this area (Part 2).

Part 1. Improving the integration of international obligations governing arms transfers into national law and practice

Based on a principle of prohibition, the French legal framework governing export controls (outside the EU) and arms transfers (within the EU) contributes to promoting France's compliance with its international obligations. The CNCDH nevertheless identifies avenues for improvement to strengthen the quality of the integration of these obligations into the national control regime and to send a strong signal as to the importance the legislator and the government attach to the substantive criteria for arms transfers arising from the ATT and the EU Common Position, in particular those relating to international humanitarian law and human rights. This would also facilitate the implementation of other international obligations, notably the obligation to respect and ensure respect for international humanitarian law, as well as the obligation to prevent and punish international crimes. Accordingly, the CNCDH recommends, *inter alia*, that the Defence Code be amended:

- to insert a new article providing that the provisions of Chapter V, Title III, Book III of the second part of the Defence Code (relating to the import and export of war materials and assimilated equipment outside EU territory, as well as to transfers of defence-related products within the EU) shall be applied with due regard to France's international commitments, including those arising from the ATT and the amended EU Common Position 2008/944/CFSP (Recommendation No. 2);
- to introduce, in the regulatory part of the Code, provisions equivalent to Articles 6 and 7 of the ATT, as well as to the criteria set out in the amended EU Common Position 2008/944/CFSP (Recommendation No. 3).

The modalities and scope of the monitoring of authorized arms transfers also need to be improved to ensure proper implementation of these international obligations over time. To this end, the CNCDH recommends, *inter alia*:

- increasing the number of documentary verifications and on-site inspections, and adopting dissuasive sanctions in case of non-compliance with the regulations, as well as allocating the necessary resources thereto, in order to enhance the deterrent effect and credibility of *ex post* controls (Recommendation No. 4);
- extending the nature and scope of *ex post* controls in order to carry out end-use monitoring of war materials and assimilated equipment, by modifying end-user certificates and, where appropriate, conducting on-site physical inspections (Recommendations No. 5 and 6);
- amending the Defence Code to provide for an obligation to suspend or revoke export, import or transfer authorizations in the event of a change in circumstances revealing use of war materials and assimilated equipment that is inconsistent with France's international commitments (Recommendation No. 7)

The implementation of international obligations governing arms transfers is facilitated by the transparency that States are expected to demonstrate in this area. France shows its commitment to transparency by publishing an annual

report, in accordance with the requirements of the ATT, as well as an annual report to Parliament on France's arms exports. However, the CNCDH notes that the information related to French arms transfers contains significant gaps and that decision-making processes in this area remain opaque. Enhancing transparency, at both the international and national levels, should be a priority to ensure better access to information and thereby strengthen trust and accountability in matters related to arms transfers. In particular, the CNCDH recommends that France:

- submit its annual reports to the ATT Secretariat within the deadlines set by Article 13.3 and continue to make them systematically public, while improving their content so as to provide a more detailed picture of the arms transfers it has authorized or those that have been carried out (Recommendations No. 8 and No. 9);
- submit to the ATT Secretariat, and publish, an update of its initial report including new measures, notably legislative measures, taken to implement the ATT (Recommendation No. 11);
- improve the content of the annual report to Parliament on France's arms exports and ensure the sustainability of the progress made in terms of transparency, as well as integrate therein the high-level guidelines of the SGDSN (General Secretariat for Defence and National Security) (excluding elements legitimately covered by national defence secrecy) (Recommendations No 13, 14 and 15);
- increase the frequency of publication of information regarding French arms transfers (quarterly or semi-annual report to Parliament; online database; publication, by any appropriate means, including proactively, of recent information on export licenses to countries whose human rights and/or international humanitarian law records attract the attention of parliamentarians, the public opinion, and the international community) (Recommendations No 16 and 17).

Part 2. Strengthening corporate accountability in the arms-sector with regard to human rights and international humanitarian law

Businesses are not directly subject to the ATT, nor the EU Common Position 2008/944/CFSP. It is up to States to implement these instruments at the national level, including by ensuring their compliance by businesses under their jurisdiction. As key actors in arms transfers, businesses nevertheless play a crucial role in ensuring that such transfers are responsible, not only by applying the national control regime, but also by exercising human rights and international humanitarian law due diligence across all activities related to arms transfers (manufacturing, sales, transport, brokering, financing, insurance, etc.). These business responsibilities are often hidden by States' sovereign decisions to authorize arms transfers, or not. In order to address gaps in the implementation of the ATT and to contribute effectively to preventing, mitigating and remedying the adverse impacts of arms transfers on respect for human rights and international humanitarian law, better coordination between States' obligations and the responsibilities of businesses in the arms sector is required.

Through a first set of recommendations, the CNCDH encourages France to reaffirm the responsibility that falls upon businesses in the arms sector to respect human rights and international humanitarian law, independently of and in a complementary manner to decisions related to export authorization and to the obligations incumbent upon States (Recommendations No. 18 to 25). To this end, France should notably:

- recall that all businesses in the arms sector should exercise human rights and international humanitarian law due diligence at all stages of arms transfers, in accordance with the United Nations Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct; and that those falling under the scope of Law No. 2017-399 of 27 March 2017 on the duty of vigilance of parent companies and instructing undertakings must establish, publish and effectively implement a vigilance plan (Recommendations No. 20 and 21);
- impose enhanced human rights and international humanitarian law due diligence on businesses operating in situations of armed conflict, in particular those in the arms sector, and ensure that they do not take part in violations of international humanitarian law and human rights (Recommendation No. 22);
- strengthen training and awareness-raising for businesses regarding the implications of the ATT and the EU Common Position 2008/944/CFSP (as amended) for them, as well as their understanding of the adverse impacts that arms exports and transfers may have on respect for human rights and international humanitarian law

(Recommendations No. 18 and No. 23).

A second set of recommendations is addressed to businesses in the arms sector, calling on them to exercise human rights and international humanitarian law due diligence throughout their activities and value chains, in accordance with the United Nations Guiding Principles and OECD Guidelines and, where applicable, the Law on the Duty of Vigilance (Recommendations No. 26 to 32).

This requires, in particular, that they carry out their own human rights and international humanitarian law risk assessments, in a complementary manner to those conducted by export and import control authorities, covering the entire value chain, both upstream and downstream, in order notably to include the use of products/services by their customers (Recommendation No. 28).

Businesses should also:

- better report on the (potential and actual) adverse impacts of their activities on human rights and international humanitarian law, as well as on the mitigation and prevention measures adopted, by publishing sufficiently detailed, accessible and understandable information (Recommendation No. 27);
- adopt appropriate and proportionate measures to mitigate risks and prevent violations – including by providing training on human rights and international humanitarian law to their employees responsible for export control – assess the effectiveness of these measures and monitor their implementation, as well as establish or participate in grievance and remediation mechanisms (Recommendations No. 29, 30, and 31).

Part 3. Establishing genuine parliamentary and judicial oversight of arms transfers

External oversight of decisions taken by the executive in the field of arms transfers, as well as of the activities of private actors, should be ensured, within their respective areas of competence, by the legislative and judicial powers. However, the CNCDH notes that parliamentary oversight, although recently strengthened by the creation of a dedicated parliamentary commission for evaluating the government's export policy on war materials, assimilated equipment and dual-use goods, remains very limited. Furthermore, while arms transfers are increasingly subject to judicial proceedings in France, at the European and at the global level, judicial oversight remains, at present, blocked or embryonic. The obstacles to these external controls should be removed to establish democratic oversight of arms transfers, ensure respect for the legality of arms transfers, and guarantee access to justice.

To strengthen parliamentary oversight of arms transfers, the CNCDH recommends, in particular:

- that the annual report to Parliament on France's arms exports, as well as the report on dual-use goods, be systematically the subject of a joint hearing by the Defence, Foreign Affairs, and Economic Affairs Committees of not only the National Assembly, but also the Senate; and that they be debated in a public session (Recommendations No. 33 and No. 34);
- that the legislator broaden the composition and attributions of the parliamentary evaluation Commission and authorize its members to access information protected by the secrecy of national defence (Recommendations No. 36 and No. 37);
- that the legislator provide that the parliamentary evaluation Commission produce an annual public report outlining its activities, meet monthly and conduct regular hearings of individuals involved in the control of arms and dual-use goods exports (relevant members of the Government and administration), as well as notably representatives from associations concerned with these issues, industry representatives, trade unions and elected representatives of workers in the field, and experts (Recommendations No. 38 and No. 39);
- that the Government narrowly interpret information restrictions relating to arms transfers set by law and pursuing legitimate objectives, and ensure that it adheres only to those that are strictly necessary and proportionate, in order to guarantee access to information in the public interest and the possibility of public debate (Recommendation

No. 41);

- that the members of Parliament make full use of the oversight tools at their disposal, organize regular exchanges with their foreign counterparts on their respective arms transfer control practices, contribute to a greater awareness of the rules governing arms transfers as well as the risks they may pose to human rights and international humanitarian law, and participate in enhancing corporate accountability in the arms sector (Recommendations No. 42 to 45).

Lifting obstacles to judicial oversight of arms transfers requires setting aside – through judicial or legislative means – the principle of immunity enjoyed by acts of government, including decisions relating to the export of war materials and assimilated equipment, thus avoiding judicial scrutiny, when fundamental rights are at stake, especially when information indicates serious violations of human rights and/or international humanitarian law (Recommendations No. 46 and No. 47). The direct effect of the ATT and the EU Common Position – namely the ability of any natural or legal person with legal standing to invoke them in support of their claim – must also be recognized. Furthermore, the lack of access to information should be addressed to help overcome this structural barrier to legal remedies, whether in proceedings challenging administrative decisions or aimed at holding companies liable.

Finally, France must ensure the coherence of its commitments across all relevant policy frameworks, as well as that of the strategies guiding its public policies. The CNCDH therefore recommends that it include commitments related to arms exports and transfers, and particularly those concerning their impacts on the protection of human rights and compliance with international humanitarian law, in all its relevant action strategies (Recommendation No. 49).

The implementation of the recommendations formulated by the CNCDH in this Opinion would collectively contribute to giving the ATT all its effectiveness and, in doing so, to genuinely embed a universal culture of respect for international humanitarian law and international human rights law in the international trade in conventional arms, while contributing to international peace and security.



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