



COMMISSION NATIONALE  
CONSULTATIVE  
DES DROITS DE L'HOMME

RÉPUBLIQUE FRANÇAISE

**OPINION**  
**A – 2025 - 10**

## **Opinion on the implementation of the Arms Trade Treaty and for enhanced accountability in arms transfers**

20 November 2025



The *opinion on the implementation of the Arms Trade Treaty and for enhanced accountability in arms transfers* was adopted during the Plenary Assembly of the 20<sup>th</sup> of November 2025 (adoption by unanimous vote).

## Summary

This opinion, which was adopted on 20 November 2025, offers a situational analysis of the implementation of the Arms Trade Treaty (ATT) and puts forward a series of recommendations addressed to the French Government, Members of Parliament and judges as well as private companies in order to secure greater accountability in relation to arms transfers.

The ATT is the first treaty aimed at regulating the international trade in conventional arms and at preventing their illicit trafficking and diversion. Its primary objective is to reduce human suffering by contributing to the ending of serious violations of international human rights resulting from the use of arms, promote transparency and to contribute to international peace and security.

Over more than a decade since it came into force, the ATT has recorded significant progress. But the humanitarian consequences of arms transfers (to or from States Parties) remain tragically evident on the ground and are particularly acute in current armed conflicts. These are taking place against a background of tense geopolitics and fractured multilateralism that is driving an arms race. The consequences are not solely the result of illicit arms trafficking or diversions but also of authorised transfers, sometimes involving private companies or intermediaries. Moreover, the structural opacity in the arms sector limits external oversight and fuels concern.

Against this background, France, the world's second-largest arms exporter, bears a renewed responsibility. With a long-standing and reputedly robust national system of control, France has been strongly committed to seeing the ATT adopted and supports its implementation, as well as that of the European Union's (EU) Common Position 2008/944/CFSP governing the exports of its Member States. However, the French National Consultative Commission on Human Rights (CNCDH) has identified a series of shortcomings in how its international obligations are being implemented and is warning of the need to increase transparency and accountability in a climate where the notion of a 'war economy' is conveyed and the importance of strengthening the defence industry emphasised. For the ATT to be fully effective presupposes better integration of the international obligations that regulate arms transfers into domestic law and practice and the development of genuine parliamentary control and judicial review, but also strengthening corporate accountability in this matter.

# Table of contents

- Summary .....2**
- Table of contents .....3**
- Introduction.....4**
- 1. Improving the integration of international obligations governing arms transfers into domestic law and practice .....8**
  - 1.1. Strengthening the national regime for the control of arms transfers and the monitoring of authorised arms transfers .....8**
    - Controlled arms and activities.....9
    - The substantive criteria regulating arms transfers .....10
    - Ex-post control of authorised arms transfers .....13
    - Reassessing authorised arms transfers .....16
  - 1.2. Improving transparency and guaranteeing access to information about arms transfers.....19**
    - France’s annual report under the ATT .....21
    - The annual report to the French Parliament on France’s arms exports .....23
- 2. Strengthening corporate accountability in the arms-sector with regard to human rights and international humanitarian law .....27**
  - 2.1. Reaffirming arms sector corporate responsibility to respect human rights and international humanitarian law .....28**
  - 2.2. Exercising human rights and international humanitarian law due diligence in the context of arms transfer activities .....34**
    - Transparency .....35
    - Risks identification and analysis .....36
    - Measures to mitigate risks and prevent violations .....37
    - Grievance and remediation mechanisms .....39
- 3. Fostering genuine parliamentary and judicial oversight of arms transfers .....41**
  - 3.1. Strengthening the necessary parliamentary oversight of arms transfers .....41**
  - 3.2. Removing obstacles to the judicial review of arms transfers.....46**
    - Administrative litigation .....46
    - Criminal and civil litigation .....53
- Recommendations of the CNCDH.....58**
- Annex 1: List of persons heard .....64**

## Introduction

---

1. On 9 October 2013, the French Minister for Foreign Affairs, when calling on Members of Parliament to approve ratification of the Arms Trade Treaty (ATT),<sup>1</sup> stressed the groundbreaking nature of this ‘*historic commitment*’.<sup>2</sup> The ATT is the first legally binding international instrument designed to regulate the international trade in conventional arms as well as to prevent their illicit trafficking and diversion. In doing so, it focuses on three objectives: contributing to international peace and security, ‘*reducing human suffering*’ and building confidence among States.<sup>3</sup> The ATT is distinct from and complements other international conventions on disarmament or arms control, notably those which prohibit certain conventional arms, or which restrict their use. Adopted following a long process supported by a vast coalition of non-governmental organisations (NGOs) and States, the ATT represents significant progress. It forms part of a rationale of prevention and seeks to secure accountability for arms transfers by establishing ‘*the highest possible*’ common standards.<sup>4</sup>

2. By placing international human rights law and international humanitarian law at the heart of its measures, the ATT sets out its ambition to help end their violations ‘*by directly targeting the causes and means of these violations*’ arising from the use of arms.<sup>5</sup> Thus the ATT strengthens pre-existing obligations in this area. It requires States to subject the transfer of arms, ammunition, parts and components to prior authorisation. One of its distinctive features is that it prohibits the transfer of certain conventional arms and related ammunition, parts and components, where these would violate sanctions or other coercive measures imposed by the United Nations Security Council or result in a State’s failure to comply with its international obligations, or if they would be used to commit international crimes, namely genocide, crimes against humanity and war crimes (Article 6). Under the terms of the ATT, the export of arms, ammunition, parts and components is subject to a series of specific criteria (Article 7). States are obliged to assess whether there is an overriding risk that the export would contribute to or undermine peace and security or could be used to commit or facilitate crimes or offences, particularly serious violations of international humanitarian law and international human rights law.<sup>6</sup> Another salient point to note is that the ATT is the first legally binding international instrument to require States to take into account the risks of conventional arms being used to commit or facilitate acts of gender-based violence. The text also requires States to take measures to tackle the diversion of arms to ensure that they are not employed by an unauthorised end-user or for unauthorised end-uses (Article 11). Lastly, the ATT contains a series of obligations to produce reports and to engage in international cooperation and assistance. Thus, the treaty is intended to promote transparency and confidence for responsible arms transfers.

---

<sup>1</sup>. Arms Trade Treaty of 2 April 2013 (came into force on 24 December 2014), available at [https://thearmstradetreaty.org/hyper-images/file/ATT\\_English/ATT\\_English.pdf?templateId=137253](https://thearmstradetreaty.org/hyper-images/file/ATT_English/ATT_English.pdf?templateId=137253).

<sup>2</sup>. Statement on the ATT given to the French Senate by the Minister of Foreign Affairs on 9 October 2013, available [in French] at [www.vie-publique.fr/discours/189219-declaration-de-m-laurent-fabius-ministre-des-affaires-etrangeres-sur](http://www.vie-publique.fr/discours/189219-declaration-de-m-laurent-fabius-ministre-des-affaires-etrangeres-sur).

<sup>3</sup>. Art. 1 of the ATT.

<sup>4</sup>. *Ibid.*

<sup>5</sup>. CNCDH, *Avis sur le projet de convention cadre sur les transferts internationaux d’armes [Opinion on the draft framework Convention on international arms transfers]*, Plenary Assembly of 23 June 2005, p. 1.

<sup>6</sup>. Art. 7 also specifies acts that would constitute an offence under international instruments relating to terrorism and transnational organised crime.

3. The 10<sup>th</sup> anniversary of the ATT in 2024 and the revision of the EU's Common Position 2008/944/CFSP in 2025<sup>7</sup> offered States Parties the opportunity to reaffirm their political commitment to attaining the objectives and purposes of these instruments, their determination to implement their obligations and their conviction that they contribute to making the international trade in conventional arms accountable.<sup>8</sup> On that occasion, several reviews were also conducted of progress made and shortcomings observed. One such emphasises the need to '*balance justified criticism of the treaty's failure to make clearly observable progress towards the objective of reducing human suffering with recognition of its achievements in norm-setting, universalization, and the development and enhancement of national control systems*'.<sup>9</sup> The current number of 117 States Parties to the ATT<sup>10</sup> is one of the signs of its success. However, the absence of States who figure among the largest arms exporters and importers – the United States, Russia and India – illustrates that universal adherence to the ATT remains a '*cornerstone of its success*'.<sup>11</sup> In addition, the work undertaken within the Conference of States Parties (CSP) enables the exchange of information and best practices, the adoption of voluntary guides that help States implement the treaty and, at France's initiative, the setting up of a Diversion Information Exchange Forum (DIEF).

4. Nonetheless, the humanitarian consequences of arms transfers on civilian populations and objects, or for access for humanitarian personnel, are observed on the ground. They are leading to an increase in warnings issued by numerous actors, including international organisations, the International Committee of the Red Cross (ICRC), members of parliament, NGOs, researchers and journalists, and testify to shortcomings in the implementation of the ATT. Whatever the conflict – Yemen, Gaza, Sudan, Myanmar, Ukraine, or other – all of which fall within a context of tense geopolitics and a strained multilateral system that encourages an arms race, discussions about the high human cost of arms transfers and their harmful impact on respect for international human rights law and international humanitarian law are therefore particularly acute today. In this regard, it is especially worrying to note that the serious violations observed are not solely the result of illicit trafficking, nor even of the diversion of arms, ammunition, parts or components, but also of authorised transfers. Similarly, these violations may be committed by export companies or by other private entities which facilitate or support these activities. Lastly, the opacity which characterises this sensitive sector and, similarly, the impossibility of exerting genuine external control over the decisions taken in this area not only undermine trust but also legitimately raise questions.

5. In this context, France bears a renewed responsibility. As the second leading State for arms exports,<sup>12</sup> permanent member of the United Nations Security Council, influential member of the EU, the North Atlantic Treaty Organisation (NATO) and the Organisation for Security and Co-operation in Europe (OSCE), it possesses all the necessary levers to help improve accountability in arms transfers. The

---

7. [Council Decision \(CFSP\) 2025/779 of 14 April 2025 amending Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment](#).

8. Political Declaration for the next decade of the Arms Trade Treaty, endorsed by 73 States (ATT, CSP10, [Final Report](#), 23 August 2024, ATT/CSP10/2024/SEC/807/Conf.FinRep, Annexe 2); [Council of the European Union conclusions on Arms Export Control of 15 April 2025](#) (Doc. 7534/1/25).

9. STOHL Rachel et DONDISH Roberto, '[The Arms Trade Treaty \(ATT\) at 10](#)', The Stimson Center, August 2024. Also see draft CSP8 '[Taking Stock of the ATT](#)', prepared by Germany in cooperation with Control Arms, SIPRI and The Stimson Center.

10. Vanuatu is the most recent State to have submitted its instrument of ratification in September 2025 (as at 23/09/25). For the list of States Parties, see [https://thearmstradetreaty.org/hyper-images/file/List%20of%20ATT%20States%20Parties%20\(by%20order%20of%20deposit\)\(September%202025\)/List%20of%20ATT%20States%20Parties%20\(by%20order%20of%20deposit\)\(September%202025\).pdf](https://thearmstradetreaty.org/hyper-images/file/List%20of%20ATT%20States%20Parties%20(by%20order%20of%20deposit)(September%202025)/List%20of%20ATT%20States%20Parties%20(by%20order%20of%20deposit)(September%202025).pdf).

11. Working paper presented by the President of the 11<sup>th</sup> CSP of the ATT, '[Universalization as a Priority](#)', 24 July 2025, ATT/CSP11/2025/PRES/825/Conf.WP/UNIV.

12. SIPRI Fact Sheet, '[Trends in international arms transfers, 2024](#)', March 2025.

CNCDH, which monitors the issue continuously,<sup>13</sup> has already had the opportunity to commend France's commitment to the adoption of the ATT.<sup>14</sup> France possesses a long-standing national export control regime and was already subject to the EU's Common Position 2008/944/CFSP,<sup>15</sup> replacing the 1998 Code of Conduct,<sup>16</sup> to the adoption of which it had contributed. The Common Position, recently revised in 2025, contains several points in common with the ATT while being distinct from it. It sets '*high common standards*' for EU Member States, which specifically govern the control of exports of military technology and equipment. It establishes eight criteria against which applications for export authorisation must be assessed. These include respect for human rights and international humanitarian law.<sup>17</sup>

6. In general, the CNCDH emphasises France's strong diplomatic commitment to instruments regulating the trade (or use) of arms as well as guaranteeing their application. It applauds France's efforts to promote, implement and universalise the ATT, including the financial support and international assistance and cooperation it provides to this end. However, the CNCDH identifies serious shortcomings in how France's international obligations are implemented and notes a certain discrepancy between, on the one hand, the existence of a national system of control described as 'robust', coupled with political discourse asserting the exercise of strict arms export control and, on the other hand, the reality of weak, or even non-existent, external controls which make it impossible to exercise genuine oversight in this regard. In addition, the CNCDH expresses its concern at the rise in discourse which, on the one hand, seems to be focused solely on ensuring the competitiveness of French industries while failing to remind them of their responsibilities in this area and, on the other hand, tends to view criticism voiced at government decisions in this sphere as a questioning of its prerogatives when it should be read instead as integral to the exercising of democracy. In a context in which the notion of a '*war economy*'<sup>18</sup> and of strengthening the French and European defence industry is being conveyed,<sup>19</sup> transparency and accountability ought to be encouraged.

7. Therefore, in its role of advising and overseeing France's compliance with its obligations under international human rights law and international humanitarian law, and in its capacity as the national commission on international humanitarian law, the CNCDH hereby provides an assessment and formulates recommendations with a view to France improving compliance with its international obligations regarding transfers of conventional arms and more effectively reporting these. The recommendations are threefold: 1 – to improve the integration of international obligations governing arms transfers into domestic law and practice; 2 – to strengthen corporate accountability in the arms-sector with regard to human rights and international humanitarian law; 3 – and to facilitate the development of genuine parliamentary control and judicial review of arms transfers.

---

<sup>13</sup>. CNCDH, *Opinion on the draft framework Convention on international arms transfers*, 2005, *op. cit.*; CNCDH, *Avis sur le projet de Traité sur le commerce des armes [Opinion on the draft Arms Trade Treaty]*, Plenary Assembly of 23 June 2011; CNCDH, *Avis sur le projet de Traité sur le commerce des armes [Opinion on the draft Arms Trade Treaty]*, Plenary Assembly of 21 February 2013. Also see its previous opinions: CNCDH, *Avis sur les transferts militaires, de sécurité et de police, et en particulier d'armes légères [Opinion on military, security and police transfers, in particular of small arms]*, Plenary Assembly of 5 May 2000; CNCDH, *Avis sur les transferts militaires de sécurité et de police et sur les transferts illicites d'armes [Opinion on military, security and police transfers and on illicit arms transfers]*, Plenary Assembly of 26 March 1998.

<sup>14</sup>. CNCDH, *Opinion on the draft ATT*, 2011, *op. cit.*, § 5. For more details on France's involvement in the process, see: Ministry of Defence, '[2014 Parliamentary Report on France's Arms Exports](#)' [in French], pp. 39 *et seq.*

<sup>15</sup>. Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment (recently amended in 2025).

<sup>16</sup>. [European Union Code of Conduct on Arms Exports](#), 5 June 1998.

<sup>17</sup>. The EU's amended Common Position 2008/944/CFSP contains additional criteria to the ATT, such as taking account of sustainable development of the country of final destination (eighth criterion).

<sup>18</sup>. Statement by the President of the French Republic on the French and European arms industries, Villepinte, 13 June 2022, available [in French] at [www.vie-publique.fr/discours/285399-emmanuel-macron-13062022-industrie-darmement](http://www.vie-publique.fr/discours/285399-emmanuel-macron-13062022-industrie-darmement) ([free translation](#)). See France's '[2025 National Strategic Review](#)' [in French].

<sup>19</sup>. In particular, see the European Commission White Paper for European defence – Readiness 2030 and the ReArm Europe plan to finance EU defence, available at [https://commission.europa.eu/topics/defence/future-european-defence\\_en](https://commission.europa.eu/topics/defence/future-european-defence_en).

*N.B.: Clarification of terminology: The term ‘international arms transfer’<sup>20</sup> is employed in this Opinion to signify the practice as framed by the United Nations Register of Conventional Arms (UNROCA), which is focused principally on the movement of arms into or from a national territory and involving a transfer of title and control.<sup>21</sup> The CNCDH intends here to focus more precisely on the international transfers of the (eight) categories of arms covered by the ATT,<sup>22</sup> with the addition of the common list of (22 items of) EU military equipment<sup>23</sup>, as well as the categories of arms which are subject in France to restrictions or to a special procedure for importing inside or exporting outside the EU (referred to as ‘war materials and related materials’) or for transferring within the EU (‘defence-related products’).<sup>24</sup> Applicable in different fields, these regulations cover both complete weapons systems – military armoured vehicles, aircraft, tanks and ships – and conventional arms and their ammunition, parts and components<sup>25</sup>, as well as military technology and, in France, operational training. The present opinion is focused on the implementation of the ATT and the EU’s (amended) Common Position 2008/944/CFSP and does not deal with other categories of goods that are subject to control regimes, such as firearms and ammunition for civil use or so-called dual-use goods,<sup>26</sup> which are subject to different legal regimes, although they also relate to questions of compliance with international human rights law<sup>27</sup> and international humanitarian law.<sup>28</sup>*

---

<sup>20</sup>. No accepted common definition exists of what constitutes an international arms transfer. The terminology and content vary depending on the regulations.

<sup>21</sup>. For more details, see United Nations Office for Disarmament Affairs (UNODA), ‘[A Guide to Assist National Points of Contact in Submitting their National Reports](#)’, *Occasional Papers*, no 39, April 2023, p. 3. For the purposes of the ATT, ‘transfer’ designates ‘*export, import, transit, trans-shipment, and brokering*’ (Art. 2 §2). In French law, the term ‘transfer’ is used to designate shipments or movements of defence products within the EU (Art. L. 2335-8 *et seq.* of the French Defence Code) and does not encompass on operations where the destination is a third country outside the EU.

<sup>22</sup>. Battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft, attack helicopters, warships, missiles and missile launchers, small arms and light weapons (Art. 2 §1 of the ATT).

<sup>23</sup>. The Common Military List of the EU, recently revised by the Council on 24 February 2025, is available at [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:C\\_202501499](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:C_202501499).

<sup>24</sup>. See the list established by the [Decree of 27 June 2012 relating to the list of war materials and related materials subject to prior authorisation and defence-related products subject to prior authorisation for transfer](#) [in French], which is regularly updated (latest update 26 May 2025).

<sup>25</sup>. Articles 6, 7 and 8 of the ATT relating to prohibitions imposed on certain transfers and concerning exports and imports, thus encompass both arms and associated ammunition, parts and components (referred to in Articles 3 and 4). However, Articles 9 to 11 on transit and trans-shipment, brokering and diversion, as with article 13 relating to reporting, only refer to the arms covered under Article 2 §1.

<sup>26</sup>. Dual-use items mean ‘*items, including software and technology, which can be used for both civil and military purposes*’ (Regulation (EU) 2012/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (recast), Article 2§1). In France, their export to non-EU States is subject to authorisation issued by the Department of Dual-Use Goods (SBDU) of the Ministry of Economy and Finance. When a particularly sensitive export licence is requested, the Interministerial Commission for Dual-Use Goods (CIBDU), which comprises a representative of the Ministry for the Armed Forces, issues a decision.

<sup>27</sup>. Joint declaration by seven human rights organisations, ‘[New EU Dual Use Regulation agreement “a missed opportunity” to stop exports of surveillance tools to repressive regimes](#)’, 25 March 2021.

<sup>28</sup>. See, for example: HATHAWAY Oona A., KHAN Azmat and REVKIN Mara Redlich, ‘[The Dangerous Rise of Dual-Use Objects in War](#)’, *Duke Law School Public Law & Legal Theory Series No. 2024-56*, September 2024.

# 1. Improving the integration of international obligations governing arms transfers into domestic law and practice

---

8. France's compliance with its international obligations on arms transfers rests in part on the extent to which its national judicial framework conforms to said obligations and in part on how these are implemented. The French legal regime, described as '*robust in its structure*<sup>29</sup> and founded on a principle of prohibition, by its nature favours this implementation. Nevertheless, the CNCDH identifies areas for improvement, both in the quality with which these obligations are integrated into the national control regime and in the monitoring of authorised arms transfers, with a view to ensuring they are properly applied over time (1.1.). Moreover, their effective implementation must be facilitated by the transparency which States are called on to demonstrate in this area, along with inter-state cooperation. Whilst France gives expression to its commitment to transparency notably through the publication of its annual report submitted in accordance with the ATT, the CNCDH notes that the information available on French arms transfers contains significant gaps and that the relevant decision-making processes remain characterised by opacity. Improving transparency must be a priority to ensure better access to information and thereby strengthen trust and accountability in arms transfers (1.2). In addition, it would bolster France's credibility in its efforts in support of the universalisation and application of the Arms Trade Treaty.

## 1.1. Strengthening the national regime for the control of arms transfers and the monitoring of authorised arms transfers

9. Under French law, defence sector activities are subject to State authorisation and control, the form and extent of which vary according to the types of arms and activities concerned. War material, which features arms covered by the ATT, is subject to dual control. First, its manufacture and trade, but also intermediation activities and, since 2018, its use and exploitation in the context of service provision<sup>30</sup> are subject to authorisation by the State.<sup>31</sup> Second, the movement of arms destined for or originating from French national territory is subject to State authorisation and control. French law draws a distinction depending on whether the State of destination or origin is an EU Member State or a third State. The import or export of 'war materials and related materials' outside EU territory is subject to a principle of prohibition and requires prior authorisation.<sup>32</sup> The 'transfer of defence-related products'

---

<sup>29</sup>. French National Assembly, '[Information Report No. 3581 on the control of arms exports](#)' [in French], MAIRE Jacques and TABAROT Michèle (rapporteurs), 18 November 2020 (hereinafter MAIRE J. and TABAROT M. Report) (free translation).

<sup>30</sup>. Art. L. 2332-1 of the Defence Code, amended by Law No. 2018-607 of 13 July 2018 *relating to military programming for the years 2019 to 2025 and containing diverse measures involving defence*, JORF [Official Journal of the French Republic] No. 0161 of 14 July 2018, text No. 1 (Art. 43).

<sup>31</sup>. Directorate General for Armament (DGA), '[Guide to Authorisation for the Manufacture, Trade, Intermediation, Exploitation and Use \(AFCI\) of War Materials \(Category 2\)](#)' [in French], November 2022.

<sup>32</sup>. Art. L. 2335-1 and L. 2335-2 *et seq.* of the Defence Code.

within the EU is governed by a simplified regime based on a system of prior authorisation.<sup>33</sup> Since 2014, the application for authorisation (to import, export and transfer) has been in the form of a single-licence application.<sup>34</sup> Securing such a licence requires the Prime Minister (or, by delegation, the Secretary General for Defence and National Security (SGDSN)) to issue a favourable decision, who rules on the basis of a (non-binding) opinion from the Interministerial Commission for the Study of War Material Exports (CIEEMG).<sup>35</sup> In addition to this ex-ante control, an ex-post control has been in place since 2012.

## Controlled arms and activities

10. Arms transfers regulated by the ATT and the EU Common Position 2008/944/CFSP are thus subject to a national regulatory framework based on a principle of prior authorisation. The scope of the arms and ammunition subject to a prohibition regime and/or prior authorisation is established by decree,<sup>36</sup> which sets out a 'national control list' under the terms of the ATT. This list comprises those items referred to by the ATT and by the EU Common Position and goes even further.<sup>37</sup> The CNCDH is pleased to note that the French legal framework is based on a prohibition principle and/or on prior authorisation and regulates a more comprehensive list of equipment, notably including operational training<sup>38</sup> (as a form of material related to war material). It is similarly welcome that it retains a broad definition of types of transfers – including costly and free transfers – and covers the different activities needed to carry out such transfers. This is notably the case for brokering activities, which put sellers and buyers in contact or organise transfers and which are explicitly referred to in the ATT and the Common Position.<sup>39</sup> The competent authority responsible for authorising the pursuit of such activities is thus obliged to ensure that the criteria set by these instruments are met.<sup>40</sup> In contrast, a lack of clarity seems to persist concerning the inclusion of transport and financing activities among those subject to State authorisation and control.<sup>41</sup> The CNCDH has already had occasion to point out that these constitute '*an important component of the intermediary chain between producer and end-user*'.<sup>42</sup> Moreover, under French law,

---

<sup>33</sup>. Art. L. 2335-8 *et seq.* of the Defence Code. This regime stems from the transposition of [Directive 2009/43/EC of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community](#). It does not prohibit transfers in principle but makes them subject to the issuing of prior authorisation, unless exempted (notably if the transfers are required to implement an arms-related cooperation programme between Member States).

<sup>34</sup>. The single licence covers all transactions relating to export: transfer of information prior to contract signing and order intake, contract signing and shipment of war material. Previously, ex-ante control was carried out in two stages, one requiring prior approval (before the contract was signed) and the other export authorisation (allowing the war material to leave French territory).

<sup>35</sup>. The CIEEMG is chaired by the SGDSN and comprises representatives of the Ministry of Europe and Foreign Affairs (MEAE), the Ministry for the Armed Forces (MINARM) and the Ministry of Economy and Finance ([Decree No. 55-965 of 16 July 1955 concerning the reorganisation of the Interministerial Commission for the Study of War Material Exports](#) [in French], amended by decree No. 2012-1176 of 23 October 2012).

<sup>36</sup>. [Decree of 27 June 2012 relating to the list of war materials and related materials subject to prior authorisation and defence-related products subject to prior authorisation for transfer](#) [in French] (Last updated: decree of 26 May 2025).

<sup>37</sup>. The ATT and the Common Position impose a national control regime for arms transfers and for equipment covered by their respective scope of application. However, States are encouraged to go further (Art. 5 §3 of the ATT).

<sup>38</sup>. France applies national controls to additional equipment and components such as satellites, rockets and space launchers as well as military operational training and certain intangible data/products.

<sup>39</sup>. See Articles 2 §2 and 10 of the ATT as well as Art. 1<sup>st</sup> §2 of the amended Common Position 2008/944/CSFP which deals with applications for brokering licences, which are defined and regulated by amended [Common Position 2003/468/CSFP of 23 June 2003 on the control of arms brokering](#).

<sup>40</sup>. Brokering activities are subject to the prohibition set out in Art. 6 of the ATT, are dealt with in Art. 11 relating to diversion, and their authorisation must be assessed in light of the eight criteria of the aforementioned Common Position 2008/944/CSFP.

<sup>41</sup>. Neither a combined reading of Articles L. 2332-1 I and R. 3232-5 of the Defence Code (with reference to the definition of Art. R. 311-1 of the Internal Security Code), nor of the aforementioned AFCl guide of November 2022 provides any clear response.

<sup>42</sup>. CNCDH, *Avis sur le projet de loi visant à l'interdiction des opérations d'intermédiation sans autorisation [Opinion on the bill banning intermediation operations without authorisation]*, Plenary Assembly of 8 February 2007. Thus, in the aforementioned opinions of 2011 and 2013 on the draft ATT, the Commission recommended that the latter cover as wide a range of arms/ammunition as possible but also that the different forms of transfer, and likewise the transactions and activities necessary to carry them out, be covered.

authorisation is only required in order to conduct intermediation activities, and is not a prerequisite for each intermediation operation carried out. To ensure that all activities related to arms transfer are subject to State control, the CNCDH recommends that France specifies under which circumstances and on what conditions the activities of transporters and financial actors necessary to carry out such transfers require authorisation within the meaning of Article L. 2332-1 I of the Defence Code (**Recommendation 1**).

## The substantive criteria regulating arms transfers

11. Furthermore, France has not deemed it necessary to formally incorporate the substantive criteria established by the ATT and the EU Common Position 2008/944/CSFP into domestic law in order to regulate arms transfers. It considers that its national mechanism of control allows it to ‘*give full effect*’ to the provisions of these instruments.<sup>43</sup> The Defence Code makes generic reference to ‘*compliance with France’s international commitments*’, which the administrative authority can take into account as one of the grounds for suspending, amending, revoking or withdrawing licences.<sup>44</sup> These international commitments are also taken into account in the process of examining applications for prior authorisation to import, export or transfer arms, which are granted by way of derogation by the competent authorities. These authorities assess, on a case-by-case basis, their admissibility, evaluate their substantive legality and determine their appropriateness. According to the French Government, the ATT and the EU Common Position form part of a series of rules and broader ‘*assessment criteria*’<sup>45</sup> on which the CIEEMG bases its opinions regarding applications for export licences outside the EU or intra-EU transfers. However, little information is publicly available as to the place afforded in practice to the criteria set by the ATT and the Common Position as regards the other issues involved – strategic, industrial, technological, operational, geopolitical, economic, etc. – which are considered by the CIEEMG.<sup>46</sup> This is particularly the case with the criteria concerning respect for international humanitarian law and the protection of human rights.<sup>47</sup> The decision to grant or refuse an export licence is part of a process entirely under the control of the executive power, which is at once ‘*judge and party*’ in assessing its own conduct.<sup>48</sup> The decision is based on high-level directives issued by the SGDSN, which are classified as national defence secrets,<sup>49</sup> and on advisory opinions of the CIEEMG, which are not made public. The *in concreto* examination of licence applications is therefore particularly opaque. As a result, any assessment of whether France is respecting its international obligations rests principally on the good faith of the Government.

<sup>43</sup>. See the impact study conducted for the draft bill authorising ratification of the ATT at [www.legifrance.gouv.fr/contenu/Media/Files/autour-de-la-loi/legislatif-et-reglementaire/etudes-d-impact-des-lois/ei\\_art\\_53\\_2013/ei\\_commerce\\_armes\\_cm\\_11.09.2013.pdf.pdf](http://www.legifrance.gouv.fr/contenu/Media/Files/autour-de-la-loi/legislatif-et-reglementaire/etudes-d-impact-des-lois/ei_art_53_2013/ei_commerce_armes_cm_11.09.2013.pdf.pdf) (free translation). Nor did France integrate the criteria of the 2008 Common Position when modernising its national control system through [Law No. 2011-702 of 22 June 2011](http://www.legifrance.gouv.fr/contenu/Media/Files/autour-de-la-loi/legislatif-et-reglementaire/etudes-d-impact-des-lois/ei_art_53_2013/ei_commerce_armes_cm_11.09.2013.pdf.pdf) [in French], despite proposals formulated to this end.

<sup>44</sup>. See, in particular, Articles L. 2335-1 IV and L. 2335-4 of the Defence Code dealing with import and export licences and also Articles L. 2335-12 and L. 2335-17 II (free translation).

<sup>45</sup>. See, for example, MINARM, [Report to Parliament on France’s Arms Exports 2024](#)’ [also available in its full [French version](#)], p. 7.

<sup>46</sup>. *Ibid.*, pp. 34 *et seq.*

<sup>47</sup>. However, see MINARM, [Report to Parliament on France’s Arms Exports 2022](#) [also available in its full [French version](#)], pp. 26-27, which refers to the ‘*particular vigilance*’ exercised by the CIEEMG, especially when serious violations of human rights or international humanitarian law have been observed in the destination country, and which includes among the ‘*particularly sensitive exports*’ those destined for internal security forces (police, gendarmerie). The report also indicates that, for the same reason, the CIEEMG may ‘*grant a multi-user licence only partially by excluding from the list of recipients the countries or units that are unfavourably known for not complying with human rights law*’.

<sup>48</sup>. French National Assembly, MAIRE J. and TABAROT M. Report, *op. cit.*, p. 116.

<sup>49</sup>. *Ibid.*, p. 42.

12. The relative silence of the Defence Code regarding France’s international obligations regulating arms transfers and the absence of public guidelines in the matter are in contrast<sup>50</sup> to what other States have chosen to do. In Belgium, for example, a Walloon Region decree refers to all eight criteria of the Common Position 2008/944/CSFP.<sup>51</sup> In Germany, the political principles adopted by the federal Government indicate that decisions concerning exports of weapons of war and other military equipment are taken in keeping with national law as well as the EU’s Common Position and the ATT. They specify that particular attention is paid to respect for human rights in the recipient and end-user countries.<sup>52</sup> In the case of Canada, its risk assessment framework for export and brokerage permits was strengthened in 2019 in preparation for its accession to the ATT and its legislation amended to compel the competent minister to take into account ‘*mandatory considerations*’ reflecting the criteria listed under Article 7 of the ATT.<sup>53</sup>

13. The ATT and Common Position are directly applicable within the French legal system and implicitly form part of France’s international commitments referred to in the Defence Code. However, explicitly referring to these instruments and, in particular, to the criteria that regulate arms transfers and are linked to international humanitarian law and human rights would promote their effective implementation,<sup>54</sup> both in the context of monitoring authorised arms transfers and of examining licence applications. Therefore, the CNCDH recommends that the legislature amend Chapter V of Title III of Book III of the second part of the Defence Code relating to the import and export of war materials and related materials outside the territory of the EU as well as to transfer of defence-related products within the EU. The aim is to insert a new introductory article stating that the provisions of the present chapter apply with due regard to France’s international commitments, including those stemming from the ATT and the amended Common Position 2008/944/CSFP (**Recommendation 2**). This provision should be added alongside a new article in the regulatory part of the Defence Code in order to introduce provisions that equate to Articles 6 and 7 of the ATT and to the criteria set out by the amended Common Position (**Recommendation 3**).

14. These amendments to the Defence Code would send a strong signal as to the importance that the legislature and the government attach to the substantive criteria governing arms transfers stemming from these instruments and, in particular, to the weight accorded to those relating to international humanitarian law and human rights. They would also facilitate the implementation of other international obligations, particularly the obligation to respect and to ensure respect for international

---

<sup>50</sup> The Office of the United Nations High Commissioner for Human Rights (OHCHR) notes, however, that few States have adapted their national laws to incorporate the obligations stemming from the ATT (OHCHR, ‘Impact of arms transfers on human rights’, 9 January 2025, [A/HRC/58/41](#)).

<sup>51</sup> [Decree of 21 June 2012 relating to the import, export, transit and transfer of civilian arms and defence products](#) [in French] of the Walloon Region in Belgium, Art. 14. However, with regard to the announcement by the majority in the Walloon Parliament to revise this decree in order to relax the rules on arms exports and to the concerns raised by this move, see WALRAVENS Eric and WINKEL Julien, ‘Arms Exports: Walloon’s Secret Manoeuvres’ [in French], *Le Soir*, 23 July 2025; Amnesty International, ‘Arms Trade: Future Walloon parliamentary majority must not sacrifice human rights’ [in French], 12 July 2024.

<sup>52</sup> German Federal Government, *Political Principles Adopted by the Government of the Federal Republic of Germany for the Export of War Weapons and Other Military Equipment* [in German], 26 June 2019 (see, for a summary in English: [Report by the Government of the Federal Republic of Germany on its Policy on Exports of Conventional Military Equipment in 2018](#), June 2019). These political principles are more restrictive than the EU Common Position: arms exports are not authorised in principle where there are reasonable grounds (*‘hinreichender Verdacht’*) to suspect that they will be used for internal repression or to commit other sustained and systematic human rights violations, whereas the Common Position requires export to be refused solely in the case of a ‘*clear risk*’ (see also: Germany, [Bericht der Bundesregierung über ihre Exportpolitik für konventionelle Rüstungsgüter im Jahre 2024](#), 2 September 2025, p. 9.)

<sup>53</sup> Canada, [Exports and Imports Permits Act 1985, last amended 2024](#), Art. 7.3 (1), Art. 7.4.

<sup>54</sup> In this regard, see the report by the OHCHR, ‘Impact of arms transfers on human rights’, 2025, *op. cit.*, §17, which makes the point that ‘*the content of the applicable domestic framework regulating risk assessments is likely to influence export assessment practice*’. The ‘Voluntary Basic Guide to Establishing a National Control System’ (relating to Art. 5 of the ATT) recommends that this system incorporates ‘the criteria that a State Party applies to make decisions to grant or deny authorization of a transfer’ ([ATT/CSP5.WGETI/2019/CHAIR/529/Conf.Rep.](#), p. 5).

humanitarian law, as well as the obligation to prevent and punish international crimes, including genocide. Moreover, they would be likely to strengthen confidence in the quality of the internal control exercised by the Government and to facilitate its evaluation by external actors.

15. Publicly available information and the hearings conducted by the CNCDH shed little light on the way in which France actually takes account of its international commitments when evaluating licence applications and assessing the export risks in light of Articles 6 and 7 of the ATT and the criteria set out in the Common Position. The responses provided on an *ad hoc* basis remain insufficient. They are often content to mention that the competent authorities undertake a case-by-case assessment of the existence of a ‘clear’ or ‘overriding risk’<sup>55</sup> that the war material intended for export may be used notably to commit serious violations of human rights or international humanitarian law and that, where necessary, they take risk mitigation measures.<sup>56</sup> This approach is prescribed by Article 7 of the ATT and by the Common Position. However, little information is given on the methodology used to assess this risk and the manner in which it is applied to a given situation. Furthermore, the CNCDH wishes to draw attention to the specific nature of Article 6 of the ATT, which prohibits States Parties from authorising the transfer of conventional arms, ammunition, parts and components, particularly when they have knowledge that these ‘*would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes*’. The Voluntary Guide to Implementing Articles 6 and 7 of the ATT – the adoption of which in the context of the Conference of the States Parties is welcomed by the CNCDH – stresses the obligation to respect ‘*the different nature*’ of these provisions.<sup>57</sup> Article 6 provides for ‘*absolute prohibitions*’, while Article 7 ‘*requires a risk assessment, weighing several factors*’.<sup>58</sup> The guide specifies that ‘*if a State Party establishes that one of the prohibitions in Article 6 is applicable, it needs simply to [not authorise or] halt the export; there is no question of taking into account certain other considerations or considering mitigating measures as there is when conducting the risk assessment under Article 7*’.<sup>59</sup> It is difficult to know in practice whether France is distinguishing between these two provisions and, where necessary, to what extent when the Government reveals little about the scenarios in which it considers itself obliged to refuse to authorise an export under Article 6 of the ATT.

16. Integrating Articles 6 and 7 of the ATT and the Common Position criteria into the national legal framework would offer an opportunity to provide clarity in this regard and to ensure greater consistency in how they are applied in practice. This would also be in line with the recent strengthening of controls on military technology and equipment exports brought in by EU Council Decision (CFSP) 2025/779.<sup>60</sup> The CNCDH is pleased to note the clarification thereby afforded by the updated Common Position as regards

---

<sup>55</sup>. It is generally accepted that the notions of ‘clear risk’ and ‘overriding risk’, employed by the Common Position and the ATT respectively, are similar notions.

<sup>56</sup>. See, for example, regarding French arms sales in the context of the Yemen conflict, the response [in French] from the MINARM of 18 February 2020 to [written question No. 21341](#) of 9 July 2019, or its response [in French] of 18 February 2020 to [written question No. 20353](#) of 11 June 2019 (National Assembly), according to which a case-by-case evaluation implies, on the one hand, ‘*precise knowledge (...) of how the forces of the importing State might use the equipment supplied and how (they) apply the principles of distinction, proportionality, necessity and precaution*’ and, on the other hand, ‘*the choice to put in place potential measures to mitigate the risk of human rights or international humanitarian law violations (training, support with adopting methods and doctrines for using the equipment, restrictions on use, diplomatic measures, etc.) in accordance with the ATT*’.

<sup>57</sup>. ‘Voluntary Guide to Implementing Articles 6 and 7 of the ATT’, Annex A of the ATT Working Group on Effective Treaty Implementation (WGETI) Chair’s Report to CSP10, [ATT/CSP10/WGETI/2024/CHAIR/799/Conf.Rep.](#), §75.

<sup>58</sup>. *Ibid.* These factors include current, past behaviour and future anticipated behaviour of the recipient/end-user as regards human rights, international humanitarian law, terrorism, transnational organised crime and gender, as well as consideration of the specific type of equipment exported, the recipient and the end-user concerned and the intended use of the equipment (see the ‘Voluntary Guide on Articles 6 and 7’, *op. cit.*, §99; Council of the EU, ‘[User’s Guide to Council Common Position 2008/944/CFSP](#)’, updated 14 April 2025; ICRC, ‘[Understanding the Arms Trade Treaty from a Humanitarian Perspective](#)’, September 2017).

<sup>59</sup>. *Ibid.*

<sup>60</sup>. Council Decision (CFSP) 2025/779, *op. cit.* Also see EU [Council Conclusions on Arms Export Control of 15 April 2025](#).

the criteria for assessing export applications. In particular, it welcomes the strengthening of the second criterion on respect for human rights and international humanitarian law in the country of final destination. The amendments ensure greater alignment with the obligations stemming from the ATT. In addition to Member States' obligation to deny an export licence where there exists '*a clear risk that the military technology or equipment to be exported might be used to commit or facilitate internal repression*', Member States are now more clearly required to deny such licence where there is a clear risk that they might be used to commit or facilitate '*serious violations of human rights*'. Furthermore, the amended Common Position explicitly refers to '*serious acts of gender-based violence*' and '*serious acts of violence against women [and] children*', echoing Article 7 §4 of the ATT. Similar precision has been added concerning international humanitarian law: Member States are obliged to deny an export licence if there is a clear risk that the military technology or equipment to be exported might be used to commit or facilitate serious violations of international humanitarian law '*including against protected groups under international humanitarian law, such as women and children*'.<sup>61</sup> However, the CNCDH regrets that the obligation to exercise '*special caution and vigilance*' in issuing licences for exports to countries where serious human rights violations have been established by the competent bodies of the United Nations, the EU or the Council of Europe has not been explicitly extended to observations of serious violations of international humanitarian law. Yet these observations figure among the elements that States, including France, must take into account when assessing export licence applications with regard to compliance with international humanitarian law by the country of destination or when reassessing licences after they have been granted.

## **Ex-post control of authorised arms transfers**

17. Furthermore, the methods and scope of the monitoring of authorised arms transfers need to be strengthened to ensure France's international obligations are properly applied over time. Indeed, far from ceasing once an export licence has been granted, exporting States' responsibility also extends to the post-delivery or shipment phase of the arms. Ex-post control, which is in addition to the checks conducted ex ante by the authorities tasked with granting licences and customs clearance, has a dual purpose: to check whether the exporter is fulfilling the relevant obligations, notably any conditions that may be attached to the export licence, and to prevent the arms being diverted for other or illicit use. Therefore, it forms part of a responsible arms trade policy in accordance with the ATT and the EU Common Position. States remain free to carry out different forms of post-shipment controls or other post-delivery verification measures.<sup>62</sup>

18. The French arms export control framework changed in 2012: initially based solely on the ex-ante control process, it now also provides for ex-post controls conducted once a licence has been issued. In France, this ex-post control<sup>63</sup> involves verifying that the industrial partner, once informed of the authorisation, complies with the necessary legal and regulatory obligations relating to exports or transfers of war materials and related materials. In particular, this means ensuring that the transactions conducted are in accordance with the licences granted (including the conditions – suspensive or not – attached to them). The control carried out by authorised agents of the Ministry for the Armed Forces

---

<sup>61</sup>. The criterion relating to international humanitarian law is formulated more objectively in that it refers to assessing not only the '*recipient country's attitude towards relevant principles established by instruments of international humanitarian law*' but also '*respect* [by that country] *for international humanitarian law*' (amended Common Position 2008/944/CFSP, *op. cit.*, Art. 2 §2, second bullet point, our underlining).

<sup>62</sup>. See, for example, the list appearing in the Working Paper presented by the President of the Eighth Conference of States Parties (CSP8), '[Post-shipment Controls and Coordination, Effective Export Verification and Good-Faith Cooperation between Exporters and Importers](#)', 22 July 2022, ATT/CSP8/2022/PRES/732/Conf.PostShip.

<sup>63</sup>. The post-licensing control is provided for under Articles L. 2339-1, R. 2335-37 and R. 2335-38 of the French Defence Code, and stipulated by ministerial and interministerial decrees, particularly the decree of 30 November 2011 *establishing the organisation of documentation and on-site inspections undertaken by the Ministry of Defence in accordance with Article L. 2339-1 of the Defence Code*, JORF No. 0284 of 8 December 2011, text No. 3 (last amended by a decree dated 2 April 2019).

may take the form of documentary checks to verify that the information provided and the licences held are consistent and, where appropriate, on-site inspections of the licence-holder company's premises. Coordinated by the Ministerial Committee for Ex-Post Controls of War Material Exports (CMCAP),<sup>64</sup> whose prerogatives have been gradually increased,<sup>65</sup> this control is followed by a report and, depending on the seriousness of the discrepancies observed, may lead to reminders of legal obligations or warning letters, to formal notices to take corrective measures and even sanctions.<sup>66</sup> In particular, this ensures that the various measures which France may impose in the post-shipment phase are respected, such as a declaration of arrival at destination (a document proving the arrival at the final destination and to the authorised recipient of the equipment),<sup>67</sup> End-Use Certificates (EUC) and Non-Re-export Certificates (NRC) (agreed by overseas operators who are the final recipients of the equipment exported and/or the governments of the destination countries).<sup>68</sup> While these measures are not imposed by the ATT or the Common Position, they help France fulfil its international obligations.<sup>69</sup>

19. The ex-post control carried out by the Ministry for the Armed Forces is part of a form of ongoing monitoring and a useful final addition to the national regime for controlling arms exports. However, it is lacking in several respects. As pointed out by the French Court of Auditors, the ex-post checks conducted appear '*too unambitious in scale and impact*'.<sup>70</sup> The majority of reports examined by the CMCAP result in reminders of legal obligations or warning letters, and only one financial administrative sanction has been issued to date.<sup>71</sup> The CNCDH recommends enhancing the deterrent effect and the credibility of the ex-post control by increasing the number of documentary checks and on-site controls, adopting deterrent sanction in the event of regulatory non-compliance and allocating the resources required to do so (**Recommendation 4**).<sup>72</sup> Furthermore, unlike the ex-ante control process, which comes under the political authority of the Prime minister but which relies on the CIEEMG's interministerial role, the ex-post control is governed solely by the Ministry for the Armed Forces (more specifically the Directorate General for Armament (DGA)). The members of the CIEEMG are not required to be consulted when the CMCAP control programme is drawn up nor do they receive reports on its activities, with the exception of its chair (the SGDSN). Yet an interministerial approach would prompt consideration of the diverse range of issues involved, in particular those relating to respect for human rights and international

<sup>64</sup>. Composed of seven members and chaired by the Armed Forces General Inspectorate (CGA), the CMCAP establishes the control programme, approves its procedures, issues opinions on follow-up action resulting from control reports (notably potential sanctions issued against the exporter or supplier) and proposes '*the necessary regulatory changes*' (decree of 30 November 2011, *op. cit.*, Art. 10, created by a decree dated 6 April 2017 (free translation).

<sup>65</sup>. For example, since 2016 the CMCAP has had the authority to require failing companies to modify their organisational rules and internal control procedures to comply with their obligations or be subject to financial sanctions and/or see their licences suspended, modified or revoked (order No.2016-982 of 20 July 2016 *taken in pursuance of Article 30 of Law No. 2015-917 of 28 July 2015 updating the military programming for the years 2015 to 2019 and containing various defence-related measures*, *JORF* No. 0168 of 21 July 2016, text No. 20, Art. 1 and 2).

<sup>66</sup>. In this regard, see MINARM, [Report to Parliament on France's Arms Exports 2024](#) [also available in its full [French](#) version], pp. 41-42.

<sup>67</sup>. This mechanism was created by decree no. 2017-565 of 18 April 2017 *relating to proof of arrival at destination or of re-importing of war materials and related materials exported under the terms of an individual licence*, *JORF* No. 0093 of 20 April 2017, text No. 20.

<sup>68</sup>. MINARM, [Guide/FAQs on end-use certificates and the commitment not to re-transfer, export or re-export \(CNR\)](#) [in French], October 2024.

<sup>69</sup>. In this regard, the CNCDH recommended establishing '*a national system of authorisations and delivery, end-use and non-re-export certificates issued by a high-level national body on a case-by-case basis and based on an assessment carried out in accordance with the criteria of the Treaty*', (CNCDH, *Opinion on the draft ATT*, 2011, *op. cit.*, Recommendation 3 d).

<sup>70</sup>. Court of Auditors, [Support for exports of military equipment](#) [in French, [summary available in English](#)], Public thematic report, January 2023, pp. 38 *et seq.* and Recommendation 2 (free translation).

<sup>71</sup>. MINARM, [Report to Parliament on France's Arms Exports 2024](#), pp. 42-43: since 2015, of the 365 documentation and on-site control reports examined, 35 % resulted in cases being closed with no further action, 55 % led to reminders of legal obligations/warning letters, only 5 % resulted in formal notices, and only one financial administrative sanction was imposed at the beginning of 2021 (with one case currently under examination by the Sanctions Committee).

<sup>72</sup>. In this regard, see Court of Auditors, [Support for exports of military equipment](#), 2023, *op. cit.*, Recommendation 2.

humanitarian law.<sup>73</sup> It would also facilitate the adoption of a more strategic and less formal approach to ex-post control, comprising carrying out ‘*a certain number of checks every year, based on formal selection criteria*’,<sup>74</sup> which would form a more integral part of the overall governance of the arms export policy.

20. Furthermore, the ex-post control exercised by France is restricted in nature and scope. It generally stops with the exporter (or supplier) and does not deal with the end-use of the war material as such but with the conditions of the licence issued to the exporter. The end-use is examined only in a very limited way, for example through the end-use and no-re-export certificates referred to above, or by more informal means through diplomatic follow-up or intelligence service reports. However, France does not undertake physical inspections on-site in the final destination country after the export and shipment of the war material to the end-user. It regularly points out the difficulties with putting such checks into operation.<sup>75</sup> This type of control, while it requires the agreement of the importing State, nonetheless enables the exporting State to make sure that the military equipment exported remains in the possession of the authorised end-user and is used in a manner that complies with the licence granted. Obtaining the agreement of the importing State can be facilitated using various means,<sup>76</sup> for example by making approval of a licence dependent on the end-user producing written assurances indicating that consent is given for subsequent on-site verifications. End-use certificates could be modified in this respect. France could usefully take inspiration from other States which proceed with such an end-use control<sup>77</sup> or which have announced their intention to do so, such as Switzerland, Germany, Spain and Sweden (in addition to the United States), although they sometimes limit controls to the field of small arms and light weapons (SALW).<sup>78</sup> At the same time, the European Union is also moving in this direction, although it is not imposing it on Member States. Decision (CFSP) 2021/38 actually mentions post-shipment on-site verification of the exported goods among the optional elements that could be included in the end-user certificate in the case of SALW exports.<sup>79</sup> Moreover, since it was amended in 2025, the Common Position 2008/944/CFSP has also referred – alongside the generally required end-user certificates or ‘*appropriate documentation and/or some form of official authorisation issued by the country of final destination*’ – to ‘*other end-user monitoring tools*’ that Member States may use,

<sup>73</sup>. In the same vein, see Court of Auditors, *Support for exports of military equipment*, 2023, *op. cit.*, p. 38.

<sup>74</sup>. The adoption of a strategic approach to post-shipment control, distinguished from *ad hoc* verifications, appears among the forms of good practice recommended in the context of the work undertaken by the Eighth Conference of States Parties to the ATT: Working Paper presented by the President of the CSP8, ‘[Post-shipment Controls and Coordination, Effective Export Verification and Good-Faith Cooperation between Exporters and Importers](#)’, 22 July 2022, *op. cit.*, pp. 6-7.

<sup>75</sup>. See the elements of France’s contribution to the CEP 8 thematic discussion on post-shipment controls of 22 August 2022 [in French] available at [www.thearmstradetreaty.org/hyper-images/file/France%20-%20Thematic%20Discussion/France%20-%20Thematic%20Discussion.pdf](http://www.thearmstradetreaty.org/hyper-images/file/France%20-%20Thematic%20Discussion/France%20-%20Thematic%20Discussion.pdf).

<sup>76</sup>. See the recommendations put forward in the above-mentioned working paper on post-shipment controls presented at the CSP8, pp. 7 *et seq.*, on facilitating securing agreement from the importing State.

<sup>77</sup>. More and more States are providing for the possibility of conducting on-site inspections, although these are still rarely effectively carried out (BROMLEY Mark, BROCKMANN Kolja and VARISCO Andrea Edoardo, ‘[Post-shipment on-site inspections of military material: challenges and responses](#)’, SIPRI Policy Brief, December 2021).

<sup>78</sup>. Before 2012, only the United States carried out end-use control (referred to as ‘end-use monitoring’/‘end-use check’). Since then, other States have introduced post-shipment control measures. In particular, see International Action Network on Small Arms (IANSA) and International Peace Information Service (IPIS), ‘[Post-Shipment Control of Small Arms and Light Weapons](#)’, Briefing Paper, October 2022; and CAMELLO Maria, ‘[Post-export controls: towards general practice in the European Union?](#)’ [Only an abstract available in English], Analysis Note, *GRIP*, 31 March 2021. For example, since 2015 Germany has required exporters to agree, prior to any authorisation, to the principle of subsequent (on-the-spot) checks in the destination country in the context of a pilot project focusing on SALW (German Federal Ministry for Economic Affairs and Energy, ‘[Key points for the introduction of post-shipment controls for German arms export](#)’, 8 July 2015).

<sup>79</sup>. [Council Decision \(CFSP\) 2021/38 of 15 January 2021 establishing a common approach on the elements of end-user certificates in the context of the export of small arms and light weapons and their ammunition](#), Art. 6. The draft regulation backed by the Greens/European Free Alliance in 2021 proposes post-shipment and end-use control for all military equipment covered by the current Common Position (for a list of countries identified by delegated acts for which there is a risk that export criteria may be violated): see Greens/European Free Alliance, ‘[Briefing on the draft regulation on EU arms exports to establish stricter control](#)’, 12 October 2021.

*'including requiring end-users to agree to specific verification mechanisms'*.<sup>80</sup> Although the amended Common Position does not go as far as to impose such measures, this updated formulation illustrates how good practice is evolving in this area.<sup>81</sup> The updated 2025 'User's Guide to the Council Common Position' mentions on-site inspections in addition to documentary verification or authentication of certificates among the useful tools to achieve traceability over time of the exported equipment from manufacturer to final user.<sup>82</sup> The CNCDH recommends that France strengthen end-use safeguards and their oversight by ensuring that end-use certificates allow for checks on end-users and the stated use,<sup>83</sup> including by providing the means for subsequent on-site verification in the country of destination (**Recommendation 5**). France ought to undertake a (post-shipment) control of the end-use of war materials and related materials in the country of final destination, including, where appropriate, by conducting physical on-site inspections, to ensure that the exported military equipment remains in the possession of the authorised end-user and is being used in accordance with the authorisation granted (**Recommendation 6**).

## Reassessing authorised arms transfers

21. Ex-post control must also enable the export licence to be re-examined if *'new relevant information'* concerning a specific destination or party concerned with the export alters the initial risk assessment.<sup>84</sup> This is the case, for example, in the event of a change in the political or security context of the recipient country – a change of government and/or legislation, outbreak of armed conflict, etc. – the adoption (by the UN Security Council or the EU) of sanctions or restrictive measures, particularly arms embargoes, or if reports by intergovernmental bodies or NGOs find that violations of human rights or international humanitarian law could be committed or facilitated through the use of arms whose export has been authorised. The ATT and the EU Common Position merely encourage States to undertake this reassessment. However, other international (or national) obligations may render this reassessment mandatory.<sup>85</sup> A State may indeed be considered internationally responsible if *'there is an expectation, based on facts or knowledge of past patterns, that such weapons [for which it plans to authorise or has authorised the transfer] would be used to violate the [four 1949 Geneva] Conventions'*;<sup>86</sup> or if it *'learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed'*;<sup>87</sup>

<sup>80</sup>. Article 5 of amended Common Position 2008/944/CFSP which deals with reliable prior knowledge of end-use in the country of final destination on which export licences must be based.

<sup>81</sup>. It also illustrates that, while the Common Position emphasises control prior to issuing a licence, post-shipment controls *'can be a complementary tool for national arms export control policy'*. Member States are encouraged therefore to take account of the existing body of good practice in the matter ('User's Guide to Council Common Position 2008/944/CFSP', 14 April 2025, *op. cit.*, p. 11).

<sup>82</sup>. 'User's Guide to Council Common Position 2008/944/CFSP', 14 April 2025, *op. cit.*, p. 11. This concerns avoiding and detecting diversions or re-exports under undesirable conditions. The guide specifies that the end-user certificate could include *'an export verification clause (...) whereby the authorities of the importing country undertake to determine with the national export control authorities the verification and monitoring mechanism that allow ex-post control of the exported goods'* (*ibid.*).

<sup>83</sup>. As the CNCDH has pointed out, end-user control and end-use control are *'inseparable from the risks of diversion attached to any transfer'* (CNCDH, *Opinion on the draft ATT*, 2013, *op. cit.*, §29). Certain States, such as Germany, demand end-user certificates (EUC) that include general commitments to respect human rights and international humanitarian law (JACQMIN Denis, ['End-user certificate: an added value?'](#) [in French], Analysis Note, GRIP, 12 September 2018).

<sup>84</sup>. See Art. 7 §7 of the ATT and Art. 1 §1 bis of the amended Common Position 2008/944/CFSP.

<sup>85</sup>. In the same vein, see the updated Common Position of 2025, *op. cit.*, p. 14.

<sup>86</sup>. [Commentary on Geneva Conventions](#), Art. 1, §161. This stems from the customary obligation to respect and ensure respect for international humanitarian law as set out under Art. 1 common to all four Geneva Conventions of 12 August 1949, which comprises the corollary obligation not to encourage, aid or assist the commission of violations of international humanitarian law (CNCDH, [Statement regarding France's obligations with regard to the implementation of international humanitarian law](#), Plenary Assembly of 23 January 2025, JORF No. 0027 of 1 February 2025, text No. 96, §10).

<sup>87</sup>. International Court of Justice (ICJ), [Judgment of 26 February 2007](#), *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, §§425 *et seq.*

or even for complicity of a breach committed by a third State or a non-state actor.<sup>88</sup> The International Court of Justice (ICJ), in the context of the Israeli-Palestinian conflict, thus recently drew attention to the ‘*international obligations [incumbent on all States] relating to the transfer of arms to parties to an armed conflict, in order to avoid the risk that such arms might be used to violate (...) [the Convention to prevent and punish the crime of genocide and the Geneva Conventions]*’.<sup>89</sup> The ‘User’s Guide to the EU Common Position’, updated in 2025, reminds States in this regard that those producing and exporting arms ‘*can be considered particularly influential in “ensuring respect” for international humanitarian law due to their ability to provide or withhold the means by which certain serious violations are carried out*’ and ‘*should therefore exercise particular caution to ensure that their export is not used to commit serious violations of international humanitarian law*’.<sup>90</sup>

22. According to annual reports to the French Parliament, ‘*the French scheme allows for a high degree of adaptability to changes in the international political and legal context, with the law providing for the possibility for the Prime Minister to suspend, modify, abrogate or withdraw export licences issued, in particular on the basis of France’s international commitments*’.<sup>91</sup> The licences can be reassessed in accordance with the context, as the ‘*[e]lements having led to the grant of a licence may evolve over time*’.<sup>92</sup> However, little information is publicly available about the implementation of these provisions or about the criteria or factors leading France to reassess a licence that is still valid and to decide whether or not to suspend or revoke it, and, if so, for what reasons. The CNCDH notes that progress has nonetheless been made in this matter. Since 2019, the reports submitted to Parliament occasionally mention examples of decisions to suspend licences. These are added to other examples announced in *ad hoc* communications or revealed by the press, such as France’s decision to suspend and subsequently terminate a sales contract concluded with Russia concerning two helicopter carriers following the occupation of Crimea,<sup>93</sup> or the suspension of sales of modular charges (explosives) destined for Saudi Arabia.<sup>94</sup> The suspension decisions referred to in the annual reports to Parliament are often linked to arms embargoes being applied,<sup>95</sup> as was the case with Venezuela in 2018<sup>96</sup> and Eritrea in 2019.<sup>97</sup> The same year, the offensive launched by Turkey in October in northeast Syria led France to publicly announce, in a statement issued a few days later, that around 500 export licences and shipments destined for Turkey involving war material that could potentially be deployed in this context were being

<sup>88</sup>. See Art. 16 and Art. 41 of the ‘Articles on the Responsibility of States for internationally wrongful acts’ of the International Law Commission, annexed to [Resolution 56/83 of the United Nations General Assembly](#).

<sup>89</sup>. ICJ, [Order of 30 April 2024](#), *Alleged Breaches of Certain International Obligations in respect of the Occupied Palestinian Territory (Nicaragua v. Germany)*, §24.

<sup>90</sup>. ‘User’s Guide to Council Common Position 2008/944/CFSP’, 14 April 2025, *op. cit.*, p. 44.

<sup>91</sup>. This paragraph appears in numerous MINARM reports to the French Parliament on France’s weapons exports. For example, see the [2024 report](#), *op. cit.*, p. 29.

<sup>92</sup>. MINARM, *Report to Parliament on France’s Arms Exports 2024*, p. 43.

<sup>93</sup>. *Le Monde/AFP*, ‘[France suspends delivery of the first Mistral to Russia](#)’ [in French], 3 September 2014.

<sup>94</sup>. BOZEC Daniel, ‘[Freeze on exports of Bergerac explosives to Yemen: Eurenco, from powder mill to powder keg](#)’ [in French], *Sud Ouest*, 7 January 2020.

<sup>95</sup>. Violating an embargo constitutes a violation of the principle of prohibition and may be subject to disciplinary measures or criminal sanctions. For a reminder of the negative consequences of sanctions relating to respect for international humanitarian law and humanitarian action, see CNCDH, [Opinion on Humanitarian Exemptions in Sanctions Regimes and Counter-terrorism Measures. Promoting widespread use and better implementation](#), Plenary Assembly of 20 June 2024, *JORF* No. 0155 of 2 July 2024, text No. 62.

<sup>96</sup>. The adoption and extension of restrictive measures by the Council of the EU directed at armaments and related equipment destined for Venezuela resulted in the Prime Minister suspending then revoking seven licences in 2018 on the advice of the CIEEMG: MINARM, [Report to Parliament on France’s Arms Exports 2019](#) [in French], p. 31. In this same report, the application of embargoes against Myanmar, Russia and Libya is also mentioned among the criteria taken into account by France in its assessment of applications for export licences.

<sup>97</sup>. Conversely, the lifting of the embargo on Eritrea is referred to in order to justify its removal from the list of countries targeted by the suspension of the waiver of the obligation to obtain prior authorisation: MINARM, [Report to Parliament on France’s Arms Exports 2020](#) [in French], p. 33.

suspended.<sup>98</sup> The CIEEMG undertook a review of all valid licences with Turkey as the final destination and took the initial ‘*precautionary step of proceeding to suspend all [of these licences]*’. It subsequently ‘*examined in-depth each of the licences concerned to assess the risks that they might be used in the context of the offensive*’.<sup>99</sup> These precautions and the publicity surrounding them contrast with the ambiguity of France’s reaction to the conflict in Yemen or the Israeli-Palestinian conflict,<sup>100</sup> despite the risk that French weapons or components might contribute to serious violations of international humanitarian law and international human rights law.<sup>101</sup> While the Government has affirmed, for example, that ‘*the policy of vigilance exercised by France*’ in the context of the conflict in Yemen has led to a ‘*clear decrease in the number of licences granted*’ for arms exports to Saudi Arabia,<sup>102</sup> the secrecy surrounding the CIEEMG’s deliberations makes it possible neither to verify the tightening of the conditions for granting export authorisations,<sup>103</sup> nor to know the reasons in detail. This contrasts with information issued by other States in this regard. Canada, for example, published a report, which is available online, concerning the conclusions of its review of all licences for arms exports to Saudi Arabia.<sup>104</sup> The Netherlands publicly announced that the conclusions of the Group of Independent Eminent International and Regional Experts on Yemen led them to adopt a more restrictive export policy, with a presumption of denial of licence applications for exports to the armed forces of Saudi Arabia and the United Arab Emirates ‘*unless it can be incontrovertibly demonstrated that these goods [military or dual-use goods with military end-use] will not be used in the conflict in Yemen*’.<sup>105</sup> As far as the CNCDH is aware, the seizing of power by the Taliban in Afghanistan is the only other example mentioned in the annual reports to Parliament that has led France to undertake a review of all the licences for a particular country and to suspend some of them due to the changed situation.<sup>106</sup>

23. Furthermore, the Defence Code merely provides for the capacity to suspend or revoke a licence, without making it mandatory. Nonetheless, if France is aware, or should normally have been aware, that the arms which have been approved for export/transfer could be used to commit or facilitate international crimes, it is required to suspend the export or transfer authorisation by virtue of its international obligations.<sup>107</sup> As the CNCDH has emphasised, France should also ‘*suspend all arms transfers to any State across the world if there is even the slightest doubt that their use might not comply with international law*’<sup>108</sup> and, at the very least, should undertake to reassess them. The CNCDH recommends that the legislature amend the Defence Code to provide for an obligation to suspend or revoke export, import or transfer authorisations in the event of a change in circumstances revealing a use of war materials and related materials that is inconsistent with France’s international commitments (**Recommendation 7**). Tightening ex-post control, as recommended above, by undertaking genuine end-

<sup>98</sup>. *Le Monde*, ‘[France suspends exports to Turkey of “war material likely to be used” in Syria](#)’ [in French], 12 October 2019.

<sup>99</sup>. MINARM, [Report to Parliament on France’s Arms Exports 2021](#) [in French], p. 38 (free translation).

<sup>100</sup>. The Minister for the Armed Forces affirms that France does not sell arms to Israel and only exports certain components for defensive purposes or for assembly in Israel before re-export to third countries (*Le Parisien*, ‘[Shipments of military hardware to Israel: what is France exporting to the Israeli State?](#)’ [in French], 5 June 2025).

<sup>101</sup>. The CNCDH has recommended suspending export licences already granted for war material and dual-use goods as well as the issuing of new authorisations for exports to Israel (CNCDH, [Statement: ‘Gaza: starvation as a weapon of war is strictly prohibited under international law’](#), Plenary Assembly of 28 March 2024, *JORF* No. 0082 of 7 April 2024, text No. 54, Recommendation 9; CNCDH, [Emergency Statement on the current destruction of Gaza and its population](#) [in French], Plenary Assembly of 20 May 2025, *JORF* No. 0134 of 11 June 2025, text No. 68, §6).

<sup>102</sup>. Response by MINARM published on 9 September 2021 [to written question 19885](#) [in French] of 7 January 2021 (National Assembly).

<sup>103</sup>. National Assembly, MAIRE J. and TABAROT M. Report, *op. cit.*, p. 55.

<sup>104</sup>. Canada, ‘[Final Report: Review of export permits to Saudi Arabia](#)’, April 2020. This report concludes that there is a substantial risk of Canadian exports of certain types of military goods and technology being used to commit or facilitate violations of international law in Yemen.

<sup>105</sup>. Netherlands, [Dutch Arms Export Policy in 2019](#), September 2020, p. 8.

<sup>106</sup>. MINARM, [Report to Parliament on France’s Arms Exports 2022](#) [also available in its full [French version](#)], p. 40.

<sup>107</sup>. In this respect, see CNCDH ‘[Statement regarding France’s obligations with regard to the implementation of international humanitarian law](#)’, 2025, *op. cit.*, Recommendation 8).

<sup>108</sup>. *Ibid.*, §10.

use control would also facilitate the periodic reassessment of licences. This means ensuring they are suspended, revoked or withdrawn in the event circumstances change, particularly when publicly available information reveals serious violations of international humanitarian law and international human rights law committed in the context of a conflict in which French arms, components or ammunition are being or are likely to be used.<sup>109</sup> Ex-ante and ex-post controls would benefit from a systematic approach that would enable arms transfers to be more consistently and continuously assessed over time. Such an approach would ensure better coordination between the different stages of the control process and would encourage greater respect by France for its international commitments.

## **1.2. Improving transparency and guaranteeing access to information about arms transfers**

24. The ATT forms part of a collection of international<sup>110</sup> and regional<sup>111</sup> instruments designed to promote transparency regarding arms transfers. Placed at the heart of the Treaty, transparency plays an essential role in promoting monitoring of its application, confidence between States and responsible action in the international trade in conventional arms in accordance with the objects and purposes set by the States Parties.<sup>112</sup> Thus, the ATT imposes obligations to produce reports: an initial report on the measures undertaken to implement the Treaty as well as an annual report concerning authorised or actual exports and imports of conventional arms (for the preceding calendar year).<sup>113</sup> Without obliging them to do so, it also encourages the States Parties to report on measures taken to prevent the diversion of transferred arms.<sup>114</sup>

25. The submission of annual reports is all the more important given that the ATT has not introduced an independent control mechanism to guarantee that the rules it sets out are respected.<sup>115</sup> Monitoring its implementation relies essentially on State bodies, the reporting mechanism established by the Treaty, the annual Conference of the States Parties (CSP) – with the support of the ATT Secretariat – and international cooperation and assistance. The information conveyed in the annual reports encourages a form of peer review, enabling the States Parties to examine their respective transfers with regard to the obligations imposed on them as well as the object and purpose of the Treaty. It also facilitates the exchange of good practices for effective implementation of the Treaty, as well as cooperation and confidence between the States Parties. Whilst the ATT does not require it, the CNCDH considers that the publication of these annual reports is fundamental to achieving the Treaty's objectives and to fostering accountability. It should also enable external actors – members of parliament, journalists, non-governmental organisations, human rights defenders, businesses, etc. – to ensure that the States Parties comply with the '*highest possible common international standards*' established by the ATT in order to reduce human suffering and contribute to international peace and security. As the CNCDH has already

---

<sup>109</sup>. Whether this use has been authorised or results from diversion.

<sup>110</sup>. In particular, see the UN Register of Conventional Arms ([UNROCA](#)) maintained by the Secretary-General at the request of [Resolution 46/36 L of the General Assembly of the United Nations of 9 December 1991](#).

<sup>111</sup>. See, for example, Article 8 of amended Common Position 2008/944/CFSP, *op. cit.* In addition to the EU annual report on implementing the Common Position, which is produced based on Member States' contributions, an online [database](#) has also been established: EEAS, '[Arms exports control: launch of online database increasing transparency on EU arms exports](#)', 26 October 2020.

<sup>112</sup>. Art. 1 of the ATT.

<sup>113</sup>. Art. 13 §1 and §3 of the ATT.

<sup>114</sup>. Art. 11 §6 and 13 §2 of the ATT.

<sup>115</sup>. The same applies to the Common Position 2008/944/CFSP which is the subject of Member States' reports that are consolidated in the EU annual report, of exchanges within the EU Working Party on Conventional Arms Exports (COARM), of European Parliament resolutions, etc. but whose implementation relies essentially on Member States.

emphasised, regular, comprehensive and publicly available reports promote democratic oversight of arms transfers.<sup>116</sup>

26. However, the ATT suffers from a low level of engagement by States Parties when it comes to transparency. While progress has been observed regarding compliance with the obligation to submit an initial report,<sup>117</sup> the prescribed deadlines are generally not respected, almost a quarter of the reports are not publicly available and only seven States have provided updates to their initial reports.<sup>118</sup> But the most worrying aspect is the steady decline in the rate of submission of annual reports as it is evidence of ‘*negative dynamics*’ in the ATT.<sup>119</sup> Thus, while in 2015 87 % of the States Parties produced their annual report, only 64 % of them did so in 2024.<sup>120</sup> This represents the lowest rate ever recorded. This trend forms part of a progressive decline since the ATT came into force.<sup>121</sup> Moreover, the deadline of 31 May every year set by the ATT (to which the Secretariat adds a seven-day period of grace) has been met by barely more than half the States Parties since 2015.<sup>122</sup> By contrast, a slight improvement in the publicising of the reports was noted at the Eleventh Conference of States Parties (CSP11).<sup>123</sup>

27. Beyond the frequency of the submission of the reports and their public availability, the quality of the information conveyed is a determining factor in ensuring genuine transparency and fostering trust and accountability. In this instance, the ATT supplies scant detail as to the types of information to communicate and the method to apply to reporting.<sup>124</sup> Aside from the abovementioned deadline, Article 13 §3 merely requires that the annual report deal with the exports and imports of conventional arms authorised or carried out, without including ammunition, parts and components.<sup>125</sup> Thus, the ATT constitutes a form of basic standard, a minimum threshold of transparency requirements. But States are encouraged to go further as is illustrated by the annual reporting template<sup>126</sup> produced by the standing Working Group on Transparency and Reporting (WGTR)<sup>127</sup> set up by the Conference of the States Parties.

---

<sup>116</sup>. CNCDH, *Opinion on the draft ATT*, 2011, *op. cit.*, Recommendation 3 h).

<sup>117</sup>. According to the website of the ATT Secretariat, 93 States have submitted their initial report (out of the 113 required to do so), equivalent to 82 % of the States Parties: <https://thearmstradetreaty.org/initial-reports.html?templateId=209839> (on 21 August 2025).

<sup>118</sup>. See the [document of 28 February 2025 regarding the status of reporting](#) produced by the ATT Secretariat in advance of the CSP11; or the ‘[Summary of the ATT Monitor Report 2025](#)’, pp. 28 *et seq.* In addition to the six States who have already submitted an updated initial report as mentioned in this document is the United Kingdom which updated its initial report on 14 August 2025.

<sup>119</sup>. Council of the EU, [Council Conclusions on Arms Export Control](#), 15 April 2025, §14. This dynamic is also illustrated by the slow-down in the universalisation of the ATT in recent years despite the fact that between 2024 and 2025 three new States Parties signed up to the ATT following three years of stagnation (ATT Monitor Report, *op. cit.*, p. 6).

<sup>120</sup>. See the graph available on the ATT Secretariat website: <https://thearmstradetreaty.org/annual-reports.html?templateId=209826>.

<sup>121</sup>. In this regard, see the [EU’s statement](#) on the subject of transparency and reporting at the Eleventh CSP in August 2025. On 28 February 2025, just 60 % of the States Parties had fulfilled all their obligations regarding presenting annual reports, 18 % having submitted theirs only in part, while 22 % still had not submitted any report (ATT Secretariat, [Status of Reporting](#), 28 February 2025).

<sup>122</sup>. See the graph depicting the rate of timely submission of annual reports submitted from 2015 to 2023 available in the [document of 28 February 2025 regarding the status of reporting](#).

<sup>123</sup>. 25 % of reports have not been made public for the year 2023 as against 30 to 33 % for the three preceding years: ATT Secretariat, [Status of Reporting](#), 28 February 2025. However, this rate was much lower in the early years of the Treaty’s application.

<sup>124</sup>. The same applies to the EU Common Position.

<sup>125</sup>. Art. 13 §3 indicates that the annual report may contain the same information submitted by the State Party for instance to the United Nations Register of Conventional Arms and that ‘*reports may exclude commercially sensitive or national security information*’.

<sup>126</sup>. ATT, Annual Reporting Template available at [https://thearmstradetreaty.org/hyper-images/file/Annual\\_Reporting\\_Template\\_2021\\_English/Annual\\_Reporting\\_Template\\_2021\\_English.pdf?templateId=1513274](https://thearmstradetreaty.org/hyper-images/file/Annual_Reporting_Template_2021_English/Annual_Reporting_Template_2021_English.pdf?templateId=1513274). Furthermore, the Working Group provides States Parties with a [guide to annual reports](#) in the form of FAQs. The full list of tools and guidelines produced by the CSP working groups is available at [www.thearmstradetreaty.org/tools-and-guidelines.html#](http://www.thearmstradetreaty.org/tools-and-guidelines.html#).

<sup>127</sup>. See the information available at <https://thearmstradetreaty.org/working-group-on-transparency-and-reporting-wgtr.html>.

This annual report template, produced for greater convergence and comparability, encourages the States Parties to transmit information that goes beyond that required of them by the Treaty (for example, by indicating the volume and description of the goods transferred or by providing comments on the transfer in question).<sup>128</sup> Nevertheless, significant disparities remain as to the information made public by the States Parties, which constitute one of the concerns raised about access to information on arms transfers.<sup>129</sup>

## France's annual report under the ATT

28. France is one of the States Parties to show a certain degree of transparency in its arms transfers. It regularly reaffirms the great importance it attaches to respecting its obligations under Article 13 of the ATT.<sup>130</sup> It has therefore submitted an initial report and the annual reports required under this provision. It also supports its peers in this regard as is illustrated by its endorsement of the role of 'regional reporting champion' in the context of the work of the Conference of States Parties. However, it is among those States which have not adopted the abovementioned reporting template, which is not conducive to the harmonisation of practices. The CNCDH is pleased to note that since 2015 France has chosen to make its annual report publicly available on the ATT Secretariat website, thereby demonstrating its commitment to the principle of transparency. Since 2020, it has also circulated the report to members of the French Parliament by integrating it into the annual report to Parliament on arms exports produced by the Ministry for the Armed Forces. This marks significant progress, fostering synergy between the different transparency mechanisms in which France participates<sup>131</sup> and a better grasp of its international arms transfers given that the reports issued in this context contain complementary information. Paradoxically, as a result of this integration, France fails to respect its obligations under the ATT, with the timetable for presenting the report on arms exports to Parliament being regularly invoked as the reason why the deadline set by the ATT is not met. France justifies its late submission for reasons of *'the French government's commitment to inform the French people as a matter of priority, through the annual transmission and publication of a report to Parliament on arms exports, in accordance with the democratic principles on which our Republic is founded'*.<sup>132</sup> However, this timetable cannot justify a failure to meet its obligations under the ATT which, in turn, compromises the efforts made to establish trust between the States Parties and to promote the Treaty's universalisation. Furthermore, the CNCDH notes that France's failure to observe the deadline for transmission of the ATT annual report precedes its integration into the report to Parliament, with France virtually never having met it. Yet again this year, on the date this opinion was adopted, France still had not submitted its annual report that was due on 31 May 2025. Moreover, nothing prevents the timetable for presenting the report to Parliament being amended. The CNCDH recommends that France submit its annual reports to the ATT Secretariat within the prescribed deadlines, as required by Article 13 §3, and that it continues systematically to

---

<sup>128</sup>. The classification employed by the ATT Monitor report divides States into those which settle for complying with the obligations of the ATT, those which are *'meaningfully transparent'* by transmitting public reports containing a minimum of details and helping the ATT aims and objectives to be achieved and those which *'contribute to a higher standard of transparency'* by providing more information. It also seeks to encourage greater transparency as regards the quantity and quality of the information supplied.

<sup>129</sup>. See, for example, the Human Rights Council, 'Report of the UNHCHR Impact of arms transfers on human rights', 18 April 2024, [A/HRC/56/42](#), §15.

<sup>130</sup>. See, for example, [France's statement of 27 August 2025 \[in French\] on the subject of transparency and reporting at the CSP11](#).

<sup>131</sup>. France also publishes other reports and issues information in the context of different transparency mechanisms: United Nations Register of Conventional Arms, information transmitted under the Wassenaar Arrangement and the OECD, participation in the EU's information exchange mechanisms (contribution to the EU annual report on implementing the Common Position, participation in COARM and the system for notifying the refusal to issue export licences to third countries), etc.

<sup>132</sup>. CSP10 ATT, '[Transparency and establishment of reports: Statement by Commissaire Philippe Lejeune](#)' (Geneva, 21 August 2024); same [statement on behalf of France on 27 August 2025](#) [in French] at the CSP11.

make these public, including by integrating them into the annual reports to Parliament on France's arms exports (**Recommendation 8**).

29. Overall, the content of France's annual reports to the ATT respects the other, relatively limited, criteria imposed by the ATT and includes additional information. For each of the eight categories of arms covered by the Treaty, France indicates the quantities of arms which have actually been exported, that is to say the actual flows.<sup>133</sup> These data are disaggregated by importing country (for exports) and country of origin (for imports). However, France does not provide details of its imports of conventional arms falling within the scope of the ATT, whereas a number of States Parties declare exports of such arms to France. Likewise, it is sometimes criticised for not detailing all of its exports of conventional arms.<sup>134</sup> As France does not indicate whether it has excluded information from its reports due to its '*commercially sensitive*' nature or because it is a matter of national security (as permitted under Article 13 §3 of the ATT), it is difficult to determine whether this results from deliberate omissions, differences that France would justify by the heterogeneity of counting references and/or of interpretations of the categories by the States Parties,<sup>135</sup> or a failure to fulfil its transparency obligation. However, France does provide information on its imports (and exports) of small arms and light weapons (SALW), going beyond the restrictive definition of the United Nations Register.<sup>136</sup> Furthermore, France's annual reports to the ATT contain elements concerning the description of certain transferred items (such as the calibre of some weapons), but do not automatically inform of the exact type and/or commercial designation of the equipment. Moreover, observations regarding the nature of the transfers are essentially limited to highlighting exports carried out as disposals without indicating the declared end-user and end-use. Yet, a precise description of the equipment exported and imported, as well as information relating to their user and end-use, are essential to ensure a higher level of transparency and ensure that there is no prohibition or overriding risk that the war material supplied could be used to commit or facilitate serious violations, as per the terms of Articles 6 and 7 of the ATT, or be diverted (Article 11). The CNCDH recommends that France increase transparency at international level and improve the content of the annual reports it submits to the ATT Secretariat in order to provide a more detailed overview of the arms transfers it has authorised or which have been carried out (**Recommendation 9**). The annual report could thus incorporate: information about the quantity of conventional arms both exported and imported as well as their type, commercial designation and financial value for each category of arms covered by the ATT; more details on the nature of the transfers featured in its annual reports to the ATT, particularly information on declared end-users and end-use; and mention, where applicable, of the non-divulging of information that is commercially sensitive or a matter of national security. The CNCDH encourages France to systematically include in its annual report to the ATT – as it did in 2019 – a link to the annual report to Parliament on France's arms exports and to encourage other States Parties to do likewise (**Recommendation 10**). Furthermore, the CNCDH recommends that France submits an updated version of its initial report to the ATT and makes it public. This should include new measures, including legislative ones, taken to implement the ATT as set out in Article 13 §1 (**Recommendation 11**). Following the examples of Sweden in 2018, Romania in 2022 and the United Kingdom in August 2025, the updating

---

<sup>133</sup>. France's annual reports to the ATT do not indicate which arms exports or imports it has authorised but which have not yet been carried out.

<sup>134</sup>. Amnesty International France, '[Arms sales and transparency: France's omissions. What we are told and what must change \(II\)](#)' [in French], 2020.

<sup>135</sup>. See, for example, MINARM, '[Report to Parliament on France's Arms Exports 2024](#)' [also available in its full [French](#) version], pp. 39-40.

<sup>136</sup>. France does not limit itself to SALW '*made or modified to military specifications and intended for military use*' ('Report on the Continuing Operation of the Register of Conventional Arms', 30 June 2022, [A/77/126](#), §14). It '*declares SALW classified nationally as war material with the exception of those which are also classed as Category C in the Internal Security Code and that are subject by regulation to the firearm export licence regime (LEAF)*' ([Reply by MINARM](#) [in French] to written question 17157 (Senate), published 24 December 2020).

of France's initial report would fall within the recommendations recently formulated by the Conference of the States Parties.<sup>137</sup>

## The annual report to the French Parliament on France's arms exports

30. The annual report to Parliament on France's arms exports adds to the information appearing in the annual report concerning the ATT. The CNCDH has already had occasion to recall the importance of publishing national annual reports to ensure the dissemination and promotion of the ATT among members of Parliament and civil society, to demonstrate transparency and to foster effective democratic oversight.<sup>138</sup> The French Government has undertaken this exercise since 1998 and as part of its European commitments.<sup>139</sup> The Ministry for the Armed Forces annual report to Parliament is basically structured in the form of a narrative section on export policy followed by annexes comprising data on the arms transfers carried out and authorised by the Prime minister. Today the narrative section describes in detail the legal framework of the system of control for the export of war material and provides elements to explain the frameworks for controlling other export regimes – dual-use items, firearms and ammunition for civil use, explosive products and goods which could be used to inflict torture.<sup>140</sup> The latest reports to Parliament have enriched the information available on certain countries, providing context for the assessments conducted by the competent authorities. But, as previously underlined, they do not explain in sufficient detail the criteria and method for assessing licence applications, nor the manner in which these are applied.<sup>141</sup> Similarly, although the Government gives examples of the types of measures adopted by France to mitigate the risks as per Article 7 of the ATT or to prevent arms being diverted in accordance with Article 11<sup>142</sup>, the annual report to Parliament gives little indication of the frequency with which it has recourse to these or whether there are circumstances in which it considers they are required. Thus, the CNCDH invites the Government to clarify the type of mitigating measures it may adopt depending on the circumstances (**Recommendation 12**). It recalls that such measures must be adopted on a case-by-case basis and must be appropriate as to genuinely mitigate risks, and that their implementation must be evaluated.<sup>143</sup> The CNCDH notes that other States choose to communicate more precise information regarding specific countries. The Netherlands and United Kingdom, for example, highlight 'case studies' and provide information on the criteria to which the authorities pay particular attention<sup>144</sup> or against which licence applications have been examined for the year in question in relation to the countries involved.<sup>145</sup>

<sup>137</sup>. ATT CSP11, [Final Report](#), 29 August 2025, ATT/CSP11/2025/SEC/834/Conf.FinRep/Rev., §26 b).

<sup>138</sup>. CNCDH, *Opinion on the draft ATT*, 2011, *op. cit.*, §19 and Recommendation 3 h).

<sup>139</sup>. Art. 8 §3 of aforementioned Common Position 2008/944/CFSP. Since 1998 (and the adoption of the [European Union Code of Conduct on Arms Exports](#)), each EU Member State also submits an annual report on its arms exports, which feeds into the EU annual report (all EU annual reports are available at [www.eeas.europa.eu/sites/default/files/documents/2025/WEBSITE\\_Annual%20EU%20Arms%20Export%20Reports.pdf](http://www.eeas.europa.eu/sites/default/files/documents/2025/WEBSITE_Annual%20EU%20Arms%20Export%20Reports.pdf)).

<sup>140</sup>. [Regulation \(EU\) 2019/125 of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment](#) (last updated in 2025).

<sup>141</sup>. The OHCHR recommends 'disclosing risk assessment criteria and risk assessments related to international human rights law and international humanitarian law, as well as the factual basis for those assessments' (OHCHR Report 2024, *op. cit.*, §41 b).

<sup>142</sup>. See, for example, the [reply by MINARM of 18 February 2020](#) [in French] to aforementioned written question 21341 concerning the conflict in Yemen, which mentions training, support in the appropriation of methods and doctrines for the use the equipment, restrictions on use, diplomatic initiatives, etc.

<sup>143</sup>. Training in international humanitarian law and human rights for the recipient's armed and security forces figures as part of good practice but is not sufficient in itself (ICRC, '[Understanding the Arms Trade Treaty from a Humanitarian Perspective](#)', September 2017, pp. 42-43). For a list of mitigating measures that can be adopted, see Amnesty International, '[Applying The Arms Trade Treaty to ensure the protection of Human Rights](#)', 2015).

<sup>144</sup>. See, for example: Netherlands, [Dutch Arms Export Policy in 2023](#), November 2024, pp. 40 *et seq.* (Iraq and South Sudan).

<sup>145</sup>. For example, see United Kingdom, [United Kingdom Strategic Export Controls Annual Report 2024](#), July 2025, pp. 51-52 (Syria).

31. For their part, the annexes to the annual reports to the French Parliament provide essentially financial and quantitative data for the 22 categories of war materials and related materials controlled by France. The data are aggregated by country (numbers of licences and the totals granted by category of equipment and by final destination country, orders accepted, overall financial value of equipment actually delivered, etc.). However, the report to Parliament does not give any information on the types of war material or the quantities exported, despite France doing so in its annual report to the ATT. Nor do the delivery dates or expiry dates for the licences granted appear, nor any potential conditions attached to them or other safeguards or mitigating measures linked to the end-user and end-use of the war material and/or designed to prevent diversions. The report to Parliament does nonetheless supply information, albeit partially, on exports of ammunition as well as parts and components through the data provided on the number of licences issued per country and per category of war material – items that are also covered by the ATT but excluded from the reporting requirement.<sup>146</sup> Like the report to the ATT, it does not, however, contain information regarding either the end-users within the final destination countries (army, police or other), nor the declared end-use (for military purposes, law enforcement, etc.). Yet, as previously underlined, such information is indispensable for examining France's compliance with its international obligations, particularly under Articles 6, 7 and 11 of the ATT (and similar criteria of the Common Position). The 2020 report of the Parliamentary fact-finding mission on the control of arms exports points out that other States nevertheless provide such details.<sup>147</sup>

32. Access to information about refusals to grant an export licence is also essential to assess how France is fulfilling its international obligations. The annual report to Parliament gives information on this but in piecemeal fashion. It mentions the number of export authorisations refused about which France notifies other EU Member States in accordance with Article 4 of the Common Position; the criteria of the Common Position behind the refusals (expressed in percentages); and – only recently reintroduced<sup>148</sup> – the division of these refusals into geographical areas (also expressed as a percentage).<sup>149</sup> The Government highlights this information to emphasise that the report on France's exports, which mentions *'both the licences granted, the refusals and the orders received'*, is *'one of the most comprehensive in the world'*.<sup>150</sup> Moreover, the annual report to Parliament specifies that the figures related to the refusals *'do not, by themselves, make it possible to appreciate export control overall'*, given that they do not bring together all the refusals nor do they take account of the deterrent effects of the control mechanism.<sup>151</sup> But the shortcomings in the report to Parliament result from the fact that none of the information conveyed – taken in part or as a whole – provides an understanding of the way the

<sup>146</sup>. It is not a requirement of the ATT that annual reports include information on exports and imports of ammunition, parts and components that are the subject of Articles 3 and 4 (which the CNCDH regretted as these constitute *'a non-negligible proportion of international transfers and are fundamentally inseparable from the arms whose trade the Treaty specifically seeks to regulate'* (CNCDH, *Opinion on the draft ATT*, 2013, *op. cit.*, §10).

<sup>147</sup>. MAIRE J. and TABAROT M. Report, *op. cit.*, p. 114, proposal 23.

<sup>148</sup>. The reintroduction, since the 2021 report, of information on the geographical distribution of licence refusals, following the model of the 2017 report, has been recommended notably by the rapporteurs for the parliamentary fact-finding mission on arms export control (MAIRE J. and TABAROT M. Report, *op. cit.*, proposal 20).

<sup>149</sup>. In 2023 for example, France reported eight refusals, 37.5 % under criteria 2 of the Common Position on respect for human rights and international humanitarian law in the final destination country (MINARM, [Report to Parliament on France's Arms Exports](#) [in French], 2024, p. 65 (Annex 3, only available in French)). The percentage for 2024 is 39 % of 22 refusals (MINARM, [Report to Parliament on France's Arms Exports 2025](#) [in French], p. 69). In the past decade, it has varied between 5 % (in 2016) and 63 % (in 2020), the number of refusals ranging between eight (2023) and fifty (in 2017).

<sup>150</sup>. See, for example, the contribution by the Deputy Minister for Foreign Trade and French Citizens Abroad during the joint hearing on 18 February 2025 at the National Assembly, available at [www.assemblee-nationale.fr/dyn/17/comptes-rendus/cion\\_def/117cion\\_def2425041\\_compte-rendu#](http://www.assemblee-nationale.fr/dyn/17/comptes-rendus/cion_def/117cion_def2425041_compte-rendu#).

<sup>151</sup>. MINARM, *'Report to Parliament on France's Arms Exports' 2024*, p. 65 [in the [French version](#) of the report] and inset p. 39 [in the [English version](#)]. Licence requests which are being examined may be withdrawn at the exporter's request, for example if a refusal is anticipated (companies internalising the constraints); the absence of a refusal does not signify that the transaction proposed by the manufacturer is wholly approved, the State being in a position to impose more restrictive conditions; and in addition to the refusals notified to COARM are the implicit decisions to refuse a licence when the nine-month period for examining a request has lapsed (*ibid.*).

competent authorities have assessed the export risk in relation to the ATT and the Common Position. For this to be the case, the report should indicate, for each refusal, the final destination country, the export criteria on which the refusal is based, a description of the equipment concerned and its quantity, the recipient, the end-user/use and the date of the refusal, drawing on the practice in the Netherlands, for example.<sup>152</sup> For the same reasons, more information ought to appear in the reports to Parliament concerning licences that have been subject to reassessment and potentially suspended, amended, revoked or withdrawn.<sup>153</sup> Examples of licences suspended or revoked are mentioned, with the 2022 report to Parliament indicating that the recommendation formulated in this regard by the parliamentary fact-finding mission has been taken into account.<sup>154</sup> It is not specified whether these examples are exhaustive and whether the lack of information on this point indicates that no licence has been suspended or revoked during the previous year. Furthermore, scant information is given about licences that are reassessed without necessarily leading to them being suspended or revoked. The CNCDH recommends that the Government provide information on a more systematic basis in its annual reports and ensure that the progress already made in terms of transparency is sustained over the long term (**Recommendation 13**).

33. While France is making an effort in terms of transparency, the decision-making process remains opaque, and the data and flows of its arms transfers display significant gaps. The CNCDH recommends that the Government develop transparency measures at national level,<sup>155</sup> notably by improving the content of the annual report to Parliament on France's arms exports in such a way as to provide a more detailed overview (**Recommendation 14**). In particular, the following could be included:

- Information on the types and quantities of war materials and related materials exported, final recipients, the identity of the end-users as well as the declared end-use for each of the nationally controlled categories,
- Information on end-use assurances and all potential mitigation/remedial measures adopted,
- Any detail concerning the transfers (transit, re-export, etc.<sup>156</sup>) and the financial value of each arms transfer,
- The number of licences granted, their date of issue and period of validity, as well as the number of authorisations for manufacture, trade, intermediation, exploitation and use (AFCI) granted,<sup>157</sup>
- The criteria and factual data on which risk assessments are based, particularly relating to international human rights law and international humanitarian law,<sup>158</sup>
- Details on export licence refusals: the number and criteria for refusals as well as the types and quantities of the arms concerned, the recipients, the end-users and declared end-use,
- The ex-post control measures adopted (including with regard to end-use) and their results,
- Information on licence reassessments, including the number of licences potentially suspended, amended, revoked or withdrawn as well as the reasons why.

This information would provide a more precise understanding of France's international arms transfers and would clarify more accurately the way in which the competent authorities assess the export risk in line with the criteria established by the ATT, the EU Common Position and France's other international obligations. For the same reasons, and like the parliamentary fact-finding mission, the CNCDH recommends that the annual report to Parliament include the high-level directives issued by the General

<sup>152</sup>. Netherlands, [Dutch Arms Export Policy in 2023](#), November 2024, p. 24-25 and p. 65.

<sup>153</sup>. In this respect, see proposal 24 of the MAIRE J. and TABAROT M. Report, *op. cit.*

<sup>154</sup>. MINARM, [Report to Parliament on France's Arms Exports 2022](#) [also available in its full [French version](#)], p. 35.

<sup>155</sup>. Also see the recommendations formulated in the OHCHR 2024 report, *op. cit.*, §41.

<sup>156</sup>. The annual reports indicate the number of transit licences (aggregated by geographical flow and by category of equipment) as well as a list of re-export licences granted in the previous year (by final destination country and equipment category with a section devoted to remarks that show those re-exports which are temporary). They also indicate the destinations of authorised transits originating from an EU Member State.

<sup>157</sup>. Information related to AFCI appeared in the [Report to Parliament on France's Arms Exports in 2010](#), August 2011, (p. 39).

<sup>158</sup>. In this regard, see the OHCHR 2024 report, *op. cit.*, §41.

Secretariat for Defence and National Security (SGDSN), excluding elements that legitimately fall within the scope of classified national defence information (**Recommendation 15**).

34. Another fundamental aspect is the frequency of publicly available information. Both the ATT report and the report to Parliament are published only annually and refer to the previous financial year. In the context of armed conflicts potentially involving French war material, it is essential that transparency be more frequent and that information about arms transfers – authorisations, suspensions, withdrawals and/or refusals – are communicated in a timely manner. France currently provides information on the previous calendar year with almost a year and a half of a delay. Thus, while several organisations are reporting<sup>159</sup> a genocide of Palestinians occurring in the occupied Gaza Strip, the annual report to Parliament on the arms exports between January and December 2024 was not published until the end of September 2025.<sup>160</sup> A document listing French arms exports to Israel for the year 2024 has recently been declassified in order to substantiate France’s compliance with its obligations.<sup>161</sup> This – exceptional – practice is welcome and should be generalised in order to meet *‘the imperative of responsibility and transparency...towards the national representation, and the French people at large’*.<sup>162</sup> But communicating information on an *ad hoc* basis is no substitute for publishing a detailed annual report in a timely manner. This should be accompanied by the introduction of more regular methods of informing Parliament and citizens. Drawing inspiration from the United Kingdom, the rapporteurs of the parliamentary fact-finding mission on arms exports control propose instigating *‘a report to Parliament on a quarterly or half-yearly basis as well as an online database providing access to up-to-date statistical data’*.<sup>163</sup> This proposal could be usefully considered as a way of increasing the frequency with which information about France’s arms transfers is published (**Recommendation 16**). The CNCDH notes that some States provide other means of informing parliament. In the Netherlands, for example, the Parliament is informed of new licences granted for weapon systems of a value exceeding two million euros (except for some destination countries including EU Member States and those in NATO).<sup>164</sup> In Germany, the Government informs Parliament of final decisions on export licences, including proactively since 2014.<sup>165</sup> The CNCDH encourages the French Government to publish more frequently, by any appropriate means, including proactively, recent information on export licences to countries whose human rights and/or international humanitarian law records attract the attention of Members of Parliament, public opinion and the international community (**Recommendation 17**).

---

<sup>159</sup>. Human Rights Council, *Legal analysis of the conduct of Israel in Gaza pursuant to the Convention on the Prevention and Punishment of the Crime of Genocide of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel*, 16 September 2025, [A/HRC/60/CRP.3](#); also see the references cited in CNCDH, *Statement regarding France’s obligations with regard to the implementation of international humanitarian law*, 2025, *op. cit.*, §9 and CNCDH, *Emergency statement on the current destruction of Gaza and its population* [in French], 2025, *op. cit.*, §§5-6.

<sup>160</sup>. MINARM, *Report to Parliament on France’s Arms Exports* [in French], 2025.

<sup>161</sup>. *Libération* and *AFP*, *‘War in Gaza. The Minister for the Armed Forces declassifies a document to try to prove that France is not shipping arms to Israel’* [in French], 11 June 2025. The *‘exceptional circumstances’* and the significant Parliamentary and public interest in the conflict in Gaza also led the UK to publish a series of *‘ad hoc management information releases’* in 2024 in order to provide more current information on licences for exports to Israel (United Kingdom, *United Kingdom Strategic Export Controls Annual Report 2024*, July 2025, p. 11).

<sup>162</sup>. MINARM, *Report to Parliament on France’s Arms Exports 2024*, p. 3.

<sup>163</sup>. MAIRE J. and TABAROT M. Report, *op. cit.*, proposal 27.

<sup>164</sup>. Netherlands, *Dutch Arms Export Policy in 2023*, November 2024, pp. 15-16.

<sup>165</sup>. See the information available at [www.bundeswirtschaftsministerium.de/Redaktion/EN/Dossier/export-controls-for-military-equipment.html](http://www.bundeswirtschaftsministerium.de/Redaktion/EN/Dossier/export-controls-for-military-equipment.html).

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

---

35. Businesses are not directly bound by the ATT or the Common Position 2008/944/CSFP, which impose obligations only on States Parties and on EU Member States respectively. It is up to the latter to implement them at national level, including by ensuring that the legislative and regulatory measures they are thereby obliged to adopt are known and respected by the businesses within their jurisdiction. Nevertheless, the preamble of the ATT acknowledges the ‘active role’ the ‘industry’ – alongside civil society (including non-governmental organisations) – ‘can play in raising awareness of the object and purpose of this Treaty, and in supporting its implementation’.<sup>166</sup> As key actors in the arms-transfer chain, arms sector companies play a determining role in helping States implement the ATT by ensuring that such transfers are undertaken responsibly, that is to say in accordance with the prohibitions and export criteria established by the Treaty and capable of preventing diversion. These companies encompass a wide range of different industry- and private-sector bodies,<sup>167</sup> and the entire value chain of actors involved in international transfers of conventional arms is concerned, both upstream and downstream.<sup>168</sup> This means not only the manufacturers of arms, ammunition, parts and components, but also the actors involved in the transport and sale of arms (exporters, importers, freight forwarders, carriers, logistics service providers, brokers and other intermediaries who facilitate international arms transfers), as well as financial institutions and insurance companies which provide finance and/or protection against financial losses to arms sector actors.<sup>169</sup>

36. Other international norms and standards, particularly the United Nations Guiding Principles on Business and Human Rights<sup>170</sup> and the Organisation for Cooperation and Development (OECD)

---

<sup>166</sup>. ATT, preambular para. 15. In this sense, the United Nations General Assembly encourages the States Parties to strengthen their cooperation with civil society, industry and relevant international organisations in order to ensure the effective implementation and universalisation of the ATT: see resolutions 77/62 of 14 December 2022 (A/RES/77/62, §15) and 75/64 of 15 December 2020 (A/RES/75/64, §16).

<sup>167</sup>. The ATT does not define the ‘industry’ targeted in its preamble and nor does it give examples of the private-sector actors involved in the international transfer of conventional arms who play a part in the Treaty’s implementation.

<sup>168</sup>. Working Group on the issue of human rights and transnational corporations and other business enterprises (hereafter the United Nations Working Group on Business and Human Rights or UNWGBHR), ‘[Responsible business conduct in the arms sector: Ensuring business practice in line with the UN Guiding Principles on Business and Human Rights](#)’, Information Note, 30 August 2022, p. 1: The arms sectors refers to the full value chain of actors ‘producing or being directly linked to the research, development, design, production, delivery, maintenance, repair and overhaul of military weapons systems, subsystems, parts, components, and ancillary equipment’. This also includes actors providing ‘technical assistance, training, financial or other assistance, related to military activities or the provision, maintenance or use of any arms and related materiel’.

<sup>169</sup>. For a non-exhaustive list of industrial actors and other private-sector actors as well as an indication of their roles and involvement throughout the arms transfer chain, see MENSAH Anna, PERKINS Rob and FLETCHER Ryan, ‘[The Arms Trade Treaty: The Role of Industry and Other Private Sector Actors in Efforts To Counter the Diversion of Conventional Arms](#)’, ATT Issue Brief 4, UNIDIR, Conflict Armament Research and The Stimson Centre, 2023, pp. 12 *et seq.*

<sup>170</sup>. The Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework, approved by consensus by the Human Rights Council (resolution 17/4 of 16 June 2011, ‘Human rights and transnational corporations and other business enterprises’, [A/HRC/RES/17/4](#)), are available at [www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](http://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf).

Guidelines for Multinational Enterprises on Responsible Business Conduct,<sup>171</sup> govern the different but complementary obligations and responsibilities of States and businesses as regards human rights and, where applicable, international humanitarian law, whatever the sector of activity concerned. How these instruments are applied to the arms sector is the subject of growing interest in different forums,<sup>172</sup> as well as in the work of United Nations bodies, particularly the Working Group on the issue of human rights and transnational corporations and other business enterprises<sup>173</sup> and the United Nations High Commissioner for Human Rights,<sup>174</sup> plus researchers<sup>175</sup> and non-governmental organisations.<sup>176</sup> The synergies between these instruments and the framework provided by the ATT are also addressed within the ATT Conference of States Parties, particularly since that held in 2023, the theme of which was ‘The Role of Industry in Responsible International Transfers of Conventional Arms’.<sup>177</sup> Since then, this subject has been assigned to a Sub-working Group on Current and Emerging Implementation Issues.<sup>178</sup>

37. However, coordination between States’ obligations and arms sector companies’ responsibilities remains insufficiently understood and acted on. Yet, such understanding is crucial to fill the gaps in implementation of the ATT and to contribute effectively to preventing, mitigating and remedying the negative effects of arms transfers on respect for human rights and international humanitarian law. The specific nature of the arms trade, characterised by the dominant role of States, the interconnectedness of institutions controlling and supporting exports and the significant interdependency of the public and private sectors tend to obscure the specific responsibilities of businesses behind the sovereign decisions of States whether or not to authorise arms transfers. France’s reaffirmation of the arms sector’s corporate responsibility to respect human rights and international humanitarian law – beyond the sole requirement to comply with national control regimes (1) – and the exercise by those businesses of due diligence in the matter (2) are nevertheless necessary to ensure greater accountability in arms transfers.

## 2.1. Reaffirming arms sector corporate responsibility to respect human rights and international humanitarian law

38. France, while insisting on distinguishing between the obligations incumbent upon States as Parties to the Treaty and the measures applicable to other actors, acknowledges that ‘*the industry, in all its diverse forms, constitutes a full-fledged actor in its implementation, at every stage of arms transfers*’.<sup>179</sup> Arms manufacturers are required to respect a range of legislative and regulatory measures adopted by France, notably those linked to discharging its obligations under the ATT and the EU Common Position.

<sup>171</sup>. OECD, OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, adopted in 1976 and updated in 2023, available at [www.oecd.org/content/dam/oecd/en/publications/reports/2023/06/oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct\\_a0b49990/81f92357-en.pdf](http://www.oecd.org/content/dam/oecd/en/publications/reports/2023/06/oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct_a0b49990/81f92357-en.pdf).

<sup>172</sup>. Such is the case notably within the United Nations Annual Forum on Business and Human Rights.

<sup>173</sup>. UNWGBHR, ‘[Responsible business conduct in the arms sector \(...\)](#)’, Information Note, 2022, *op. cit.*

<sup>174</sup>. See the reports of the OHCHR on the impact of arms transfers on human rights, notably that of 16 September 2022, [A/HRC/51/15](#).

<sup>175</sup>. In particular, see SCHLIEMANN Christian and BRYK Linde, ‘[Arms Trade and Corporate Responsibility: Liability, Litigation and Legislative Reform](#)’, Friedrich-Ebert-Stiftung Global Policy and Development, November 2019; KANETAKE Machiko and RYNGAERT Cedric, ‘[Due diligence and corporate liability of the defence industry. Arms exports, and use and corporate responsibility](#)’, Flemish Peace Institute, 10 May 2023.

<sup>176</sup>. Amnesty International, ‘[Outsourcing responsibility: Human rights policies in the defence sector](#)’, September 2019.

<sup>177</sup>. See the information available at <https://thearmstradetreaty.org/csp-9.html>.

<sup>178</sup>. ATT, CSP10, [Final Report](#), 23 August 2024, ATT/CSP10/2024/SEC/807/Conf.RinRep, §28 f); ATT, CSP11, [Final Report](#), 29 August 2025, ATT/CSP11/2025/SEC/834/Conf.FinRep/Rev., §25 c).

<sup>179</sup>. ATT, Statement by [France](#) [in French] during the thematic discussion of the CSP9 presidency (free translation).

Industry is described as having a crucial role to play in the French system of export controls,<sup>180</sup> in both the pre-export and post-shipment phases. Indeed, the decisions to grant licences rely as well on various sources of information supplied by companies which have unique knowledge of their relationships with their clients and of their products.<sup>181</sup> According to hearings conducted by the CNCDH, the CIEEMG regularly requests additional information from the arms manufacturers. In addition, the easing of ex-ante control by the State since the move to the single licence between 2011 and 2014 was accompanied by the partial transfer of responsibility for monitoring exports from the administration to the exporter.<sup>182</sup> This increased responsibility for the exporter takes notably the form of an obligation to maintain records and to submit half-yearly activity reports.<sup>183</sup> The exporter is also required to inform the recipients of the conditions which may be attached to the licences as well as, where applicable, the restrictions imposed on the end-use of the equipment concerned or its re-export – conditions and restrictions that must be reproduced in their contracts.<sup>184</sup> Since 2016, the Ministerial Committee for Ex-Post Controls of War Material Exports (CMCAP) can order non-compliant companies to amend their organisational rules and internal control procedures to comply with their obligations, failing which they may be subject to financial sanctions and/or see their licences suspended, amended or revoked.<sup>185</sup> Nevertheless, as previously highlighted, this control appears essentially formal and is principally limited to verifying compliance with the conditions attached to the licence granted to the exporter, without as such encompassing the end-use of the war material.<sup>186</sup>

39. The capacity of arms sector companies to assist States in implementing the ATT – and the EU Common Position 2008/944/CFSP – presupposes a good knowledge of the relevant rules. Numerous documents, guides and information workshops exist to inform businesses, including start-ups, small and medium-sized enterprises (SMEs) and mid-market businesses (ETIs),<sup>187</sup> of the French legislative and regulatory framework.<sup>188</sup> These sources focus on the obligations stemming from national law, whereas the ATT, as well as the EU Common Position, provide a useful framework for all stakeholders involved in the international arms trade. The incorporation of the ATT's and the Common Position's substantive criteria in the Defence Code, in line with the recommendations set out in this Opinion, would contribute, therefore, not only to better compliance by France with its international obligations, but also greater awareness on the part of French businesses of the implications of the rules established by these instruments and, as a result, of the role that they themselves play in responsible international transfers.<sup>189</sup> As highlighted by the work of the Conference of States Parties, the ATT establishes '*common understandings amongst the various actors in the arms transfer supply chain*' and provides the

---

<sup>180</sup>. *Ibid.*

<sup>181</sup>. MENSAH Anna et al., '[The Arms Trade Treaty: The Role of Industry ...](#)', ATT Issue Brief 4, 2023, *op. cit.*, p. 17.

<sup>182</sup>. In this regard, see Court of Auditors, *Support for exports of military equipment*, 2023, *op. cit.*, p. 35 as well as the information [in French] available at <https://armement.defense.gouv.fr/international/exigences-reglementaires-liees-aux-exportations> and at [www.sgdsn.gouv.fr/nos-missions/anticiper-et-prevenir/controler-les-exportations-de-materiels-de-guerre](http://www.sgdsn.gouv.fr/nos-missions/anticiper-et-prevenir/controler-les-exportations-de-materiels-de-guerre).

<sup>183</sup>. Art. L. 2335-6 of the Defence Code. The same applies to suppliers of defence-related products (Art. L. 2335-14).

<sup>184</sup>. Art. L. 2335-5 of the Defence Code. Also see, as concerns transfers: Art. L. 2335-13.

<sup>185</sup>. See Art. L. 2339-1-1, L. 2339-1-2, L. 2335-4 al. 2 and 2335-12 al. 2 of the Defence Code.

<sup>186</sup>. See the recommendations formulated in this respect in Part 1.1. of this Opinion.

<sup>187</sup>. These are available in particular via the online portal dedicated to defence companies <https://armement.defense.gouv.fr/>, also devoted to activities to support exports. The trade group for the French defence and security manufacturers on land and in the air (GICAT), the French Aerospace Industries Association (GIFAS) and the French Maritime Industry Association (GICAN) also play an important role in this regard.

<sup>188</sup>. For MINARM's policy supporting these businesses, see [Ministerial instruction No. 5871/ARM/CAB relating to the SMEs Action Plan of the Ministry for the Armed Forces in Support of SMEs and ETIs](#) [in French] of 25 April 2022.

<sup>189</sup>. In this respect, see CNCDH, *Opinion on the draft ATT*, 2011, *op. cit.*, §18: '*to the extent that all public and private actors involved in a transfer of arms or equipment covered by the future treaty will naturally be required to respect its provisions, States should ensure that the operators involved in the arms trade are made aware of the implications of the obligations created*'.

businesses involved with ‘*guidance ... on what constitutes responsible behaviour*’.<sup>190</sup> Likewise, the EU emphasizes that, while the User’s Guide to the Common Position is primarily intended for State authorities, ‘*it is also highly relevant for wider stakeholders including exporters, helping to facilitate their own risk assessment*’.<sup>191</sup> Thus, the CNCDH recommends that France ensure that businesses in the arms sector are duly informed of the implications of the ATT and the Common Position for them, notably by highlighting the potential usefulness to them of the guides relating to implementation of Articles 6, 7 and 11 of the ATT, as well as the User’s Guide to the amended EU Common Position 2008/944/CSFP (**Recommendation 18**).

40. Furthermore, the CNCDH notes that none of the documents published by the administration and intended for businesses in the sector reminds them of their own responsibilities regarding human rights and international humanitarian law, including beyond the scope of the national arms export and transfer control regime. As well as States being obliged to ensure that the national measures they adopt under the ATT (and the EU Common Position) are respected by the businesses within their jurisdiction – including the substantive criteria regulating arms transfers – they must, under international human rights law and international humanitarian law, make sure that these businesses comply with them.<sup>192</sup> Since 2011, the CNCDH has underlined that raising the awareness of private actors as to the implications of the (future) ATT ought to provide an opportunity as well to reaffirm ‘*the principles of corporate responsibility in the matter of human rights*’.<sup>193</sup> This responsibility is recognised in the United Nations Guiding Principles and the OECD Guidelines and does not replace the obligations that primarily rest on States. For companies, this responsibility notably entails refraining from infringing human rights and exercising ‘due diligence’ which involves identifying their negative impacts on human rights, mitigating these by preventing violations and account for how they address them. In situations of armed conflict, this extends to international humanitarian law.<sup>194</sup> Moreover, corporate responsibility to exercise due diligence in the matter of human rights and the environment is a legal obligation for the largest French companies which fall within the scope of the 2017 Law on the duty of vigilance<sup>195</sup> This obligation encompasses the entire value chain upstream and downstream<sup>196</sup> and also covers companies in the arms sector, provided its thresholds are met.

41. The work carried out within the framework of the Conference of States Parties recognises that the ATT complements other norms and standards for corporate responsible conduct drawn up at multilateral level, such as the United Nations Guiding Principles and the OECD Guidelines, as well as at regional and national level.<sup>197</sup> The synergies between these instruments are underlined in order to ‘*establish robust corporate responsibility practices with regards to the international arms trade, helping*

<sup>190</sup>. President of the CSP9, [The Role of Industry in Responsible International Transfers of Conventional Arms – Draft Working Paper presented by the President of the Ninth Conference of States Parties to the ATT](#), 21 July 2023, ATT/CSP9/2023/PRES/766/Conf.WP.Ind, §4; ATT, [Working Group on Effective Treaty Implementation, Chair’s Report to CSP11](#), 1 August 2025, ATT/CSP11.WGETI/2025/CHAIR/826/Conf.Rep/Rev, §23.

<sup>191</sup>. ATT, [EU Statement](#) during the thematic discussion of the CSP9 presidency. Likewise, the EU affirms that the ATT can set standards for all stakeholders in the international arms trade.

<sup>192</sup>. In accordance with their obligations to protect human rights and to ensure respect for international humanitarian law.

<sup>193</sup>. CNCDH, *Opinion on the draft ATT*, 2011, *op. cit.*, §18.

<sup>194</sup>. See the Commentary for Guiding Principle 12, UNGP, *op. cit.*, and that of the OECD Guidelines, *op. cit.*, §45.

<sup>195</sup>. Law No. 2017-399 of 27 March 2017 *on the duty of vigilance of parent companies and instructing undertakings*, JORF No. 0074 of 28 March 2017, text No. 1, now codified in Art. L. 225-102-1 and L. 225-102-2 of the Commercial Code. It applies to companies which, at the end of two consecutive financial years, have at least 5 000 employees in France (in-house or in their direct or indirect French subsidiaries) or 10 000 employees worldwide (including their direct or indirect foreign subsidiaries).

<sup>196</sup>. A company’s own activities are covered, as well as the activities of companies that it directly or indirectly controls, and those of its subcontractors or suppliers, provided that it maintains ‘*an established business relationship*’ with them and that the activities in question are linked to that relationship (Art. L. 225-102-1 al. 3 of the Commercial Code).

<sup>197</sup>. President of the CSP9, [The Role of Industry in Responsible International Transfers of Conventional Arms \(...\)](#), 21 July 2023, *op. cit.*, §4.

to limit or mitigate its potential negative consequences'.<sup>198</sup> Thus, the Ninth Conference of States Parties encouraged the States Parties to 'take necessary steps to ensure that industry and private sector entities operating under their national jurisdiction conduct their business consistent with the object and purpose of the Treaty' as well as to continue discussions on how the United Nations Guiding Principles, human rights and instruments of international humanitarian law apply, as appropriate, in the context of the ATT.<sup>199</sup> On that occasion, numerous delegations acknowledged industry's independent responsibility to conduct due diligence in all its business activities, while emphasizing that States have the primary responsibility to regulate arms transfers and implement the ATT.<sup>200</sup>

42. However, in practice, most States do not require companies in the arms sector to conduct human rights due diligence in their operations and supply chains. Where this is the case, such as in France, gaps are observed in their implementation.<sup>201</sup> This helps perpetuate the erroneous interpretation of the Guiding Principles as having no implications for arms companies other than the mere compliance with export controls.<sup>202</sup> The Office of the United Nations High Commissioner for Human Rights identifies the continued lack of effective legal regulation of corporate actors in the arms industry as one of the gaps in the duty to prevent prohibited arms transfers.<sup>203</sup> On the contrary, States should require industry actors to conduct human rights and international humanitarian law due diligence, both through their arms transfer control framework and beyond.<sup>204</sup>

43. In this regard, it is regrettable that arms sector companies benefit from a form of partial exemption from the EU directive on corporate sustainability due diligence. The directive represents the first regional instrument aimed at imposing a cross-cutting and intersectoral obligation on businesses to exercise human rights and environmental due diligence.<sup>205</sup> It in fact covers only the upstream part and not the downstream post-export part of their chains of activities.<sup>206</sup> This exclusion disregards the use of exported equipment, even though this would constitute a useful lever for preventing the negative impacts of arms transfers on human rights and the environment and, where appropriate, for remedying them, thereby contributing to responsible arms transfers.<sup>207</sup> The obligation to exercise due diligence does not replace sovereign assessment of national authorities responsible for export controls. It is of a different and complementary nature. Regulation (EU) 2021/821 illustrates this in the related field of dual-use items (namely those which can be used for both civil and military purposes), with regard to cybersurveillance items. Their export is subject to authorisation if they 'are or may be intended, in their entirety or in part, for use in connection with internal repression and/or the commission of serious

---

<sup>198</sup>. *Ibid.*

<sup>199</sup>. ATT, CSP9, [Final Report](#), 25 August 2023, ATT/CSP9/2023/SEC/773/Conf.FinRep.Rev2, §22 e) and c).

<sup>200</sup>. ATT, [Working Group on Effective Treaty Implementation, Chair's report to CSP11](#), 2025, *op. cit.*, §23.

<sup>201</sup>. See, for example, LIZARAZO-RODRIGUEZ Liliana and FAHLBUSCH Markus, '[Due diligence and corporate accountability in the arms value chain](#)', IPIS, VUB, March 2024, p. 46.

<sup>202</sup>. UNWGBHR, '[Responsible business conduct in the arms sector ...](#)', Information Note, 2022, *op. cit.*, p. 5.

<sup>203</sup>. OHCHR, 'Impacts of arms transfers on human rights', 9 January 2025, *op. cit.*, §33.

<sup>204</sup>. In this regard, see ATT, [25 to 26/27 February 2025 WGETI Meeting: WGETI Chair Introductory Letter](#), 3 February 2025, ATT/CSP11.WGETI/2025/CHAIR/808/LetterSubDocs, Annex B-2, §10.

<sup>205</sup>. Directive (EU) 2024/1760 of the European Parliament and the Council of 13 June 2024 on corporate sustainability due diligence (CSDDD). This directive could be considerably diluted in the so-called 'Omnibus' process (CNCDH, [Resisting deregulation made at the expense of the protection of human rights and the environment. Opinion on the European Commission's "Omnibus I" Proposal](#), Plenary Assembly of 20 May 2025, JORF No. 0131 of 6 June 2025, text No. 57). This Directive is in addition to the EU regulations requiring due diligence in specific sectors, such as Regulation (EU) 2017/821, referred to as the Conflict Minerals Regulation.

<sup>206</sup>. The scope of this directive excludes the distribution, transport and storage of products subject to the export controls relating to weapons, munitions or war materials, once the export of these products is authorised (Directive (EU) 2024/1760, *op. cit.*, Art. 3 g) ii). The same applies to dual-use items. Only upstream activities associated with the production of goods or provision of services are covered.

<sup>207</sup>. This is identified as an important subject of concern by the OHCHR in its 2025 report, *op. cit.*, §33.

violations of human rights and international humanitarian law'.<sup>208</sup> The regulation also obliges an exporter who, 'according to its due diligence findings', is aware of this potential use to notify the competent authority of the Member State concerned.<sup>209</sup> These procedures relate to Internal Compliance Programmes (ICP), which mean 'ongoing effective, appropriate and proportionate policies and procedures adopted by exporters to facilitate compliance with the provisions and objectives of this Regulation and with the terms and conditions of the authorisations implemented under this Regulation, including, inter alia, due diligence measures assessing risks related to the export of the items to end-users and end-uses'.<sup>210</sup> Thus, the prerogatives of national authorities and the due diligence measures of exporters can be used to prevent violations of human rights and international humanitarian law committed or facilitated by dual-use items.<sup>211</sup> The same should apply to exports of war material.

44. The CNCDH recommends that France reaffirm the standalone responsibility that falls upon businesses in the arms sector to respect human rights and international humanitarian law, independently of and in addition to decisions related to export authorisation and to the obligations incumbent upon States (**Recommendation 19**). In particular, France should recall that all arms sector businesses that they should exercise human rights and international humanitarian law due diligence at every stage of arms transfers, in accordance with the United Nations Guiding Principles and the OECD Guidelines, including by undertaking their own risk assessments (**Recommendation 20**). This is especially the case for companies that fall within the scope of the 2017 duty of vigilance Law, which requires them to establish, publish and effectively implement a vigilance plan to identify the risks and prevent 'severe violations of human rights and fundamental freedoms, the health and safety of persons as well as environment'.<sup>212</sup> These obligations and those stemming from the Defence Code are cumulative.<sup>213</sup> The CNCDH recommends that France remind the arms sector companies concerned of their duty of vigilance obligations in accordance with the 2017 Law (**Recommendation 21**). Build around the concept of proportionality, the United Nations Guiding Principles and the OECD Guidelines further provide that State action and corporate due diligence should be strengthened in situations of armed conflict<sup>214</sup>, due to the increased risks of human rights violations and risks of breaches of international humanitarian law.<sup>215</sup> Therefore, CNCDH reiterates the recommendations it addressed to France to impose heightened due diligence obligations on businesses operating in situations of armed conflict, particularly those in the arms sector,<sup>216</sup> and to ensure they do not take part in violations of human rights and international humanitarian law<sup>217</sup> (**Recommendation 22**).

45. The obligations and responsibilities of businesses in the arms sector should be clearly set out in the training and awareness-raising activities organised for them by the Ministry for the Armed Forces. Such

<sup>208</sup>. [Regulation \(EU\) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items \(recast\)](#), Art. 5 §1. In deciding whether to grant authorisation, Member States shall take into account their international obligations, particularly those stemming from export control regimes, including the Common Position 2008/944/CFSP (Art. 15 §1). They shall also take into consideration the implementation by the exporter of an Internal Compliance Programme (ICP) (Art. 15 §2).

<sup>209</sup>. Regulation (EU) 2021/821, *op. cit.*, Art. 5 §2.

<sup>210</sup>. Regulation (EU) 2021/821, *op. cit.*, Art. 2 §21.

<sup>211</sup>. For a summary of the differences in the position of the Parliament and the Council, see BANNENBERG Jonathan, '[Changes and challenges of the new European regulation on dual-use items](#)' [in French], Analysis Note, *GRIP*, 20 May 2021.

<sup>212</sup>. Art. L. 225-102-1 of the Commercial Code. Also see Part 2.2. of this opinion.

<sup>213</sup>. The United Nations Working Group recommends that States amend national and regional export control legislation governing the arms sector to include a reference to the standalone responsibility of all businesses in the sector to conduct human rights due diligence (UNWGBHR, '[Responsible business conduct in the arms sector ...](#)', 2022, *op. cit.*, p. 7).

<sup>214</sup>. United Nations Development Programme (UNDP), '[Heightened Human Rights Due Diligence for Business in Conflict-Affected Contexts: A Guide](#)', 2022; United Nations General Assembly, UNWGBHR, '[Report on business, human rights and conflict-affected regions: towards heightened action](#)', 21 July 2020, A/75/212.

<sup>215</sup>. Guiding Principle 7, UNGP, *op. cit.*, and the Commentary of the OECD Guidelines, *op. cit.*, §45.

<sup>216</sup>. In the same vein, see UNWGBHR, '[Responsible business conduct in the arms sector \(...\)](#)', 2022, *op. cit.*, p. 7.

<sup>217</sup>. CNCDH, '[Business and Human Rights. Protect, Respect, Remedy](#)' [in French], *La Documentation française*, 2023, Recommendations 139 and 140.

activities ought to improve knowledge and understanding of the negative impacts that arms exports and transfers can have on respect for human rights and international humanitarian law (**Recommendation 23**). These awareness-raising activities should extend to intersectoral dialogue between banks, insurance companies and the defence industries and to training organised by the French Institute for Advanced Studies in National Defences (IHEDN)<sup>218</sup>, in line with one of the recommendations of the National Assembly's 'flash mission' of September 2021.<sup>219</sup> In this regard, the CNCDH notes with regret that the readiness to facilitate investments in a 'war economy'<sup>220</sup> context and to bolster the European defence industry is accompanied by a call to French banks not to conduct 'checks already carried out by the...CIEEMG'.<sup>221</sup> This assertion conflates the State's obligations and the private sector's responsibilities and tends to dilute accountability. The granting of an export licence does not exempt the bank approached to finance an export operation from conducting a risk assessment in accordance with its own obligations, whether relating to corruption,<sup>222</sup> human rights and environmental duty of vigilance<sup>223</sup> or sustainable finance,<sup>224</sup> for example. Furthermore, financial support for the Defence Technological and Industrial Base (DTIB), as well as, more broadly, the measures under discussion to increase European defence readiness,<sup>225</sup> must comply with States' international obligations, notably as regards responsible arms transfers.

46. Moreover, the CNCDH invites the Government to consider how ex-post control of export businesses could be mobilised to support the monitoring of the implementation of the duty of vigilance Law (and the United Nations Guiding Principles) (**Recommendation 24**). The application of the Law's provisions<sup>226</sup> does not primarily fall within the remit of export control authorities.<sup>227</sup> However, they could contribute to it, notably through substantive oversight of companies' internal compliance programmes, which may

<sup>218</sup>. See the information on this training cycle organised in partnership with the French Banking Federation (FBF) and the trade group for the French defence and security manufacturers on land and in the air (GICAT), available [in French] at <https://ihedn.fr/notre-actualite/premier-cycle-banques-et-industries-de-la-defense-organise-par-ihedn/>.

<sup>219</sup>. National Assembly, 'flash mission' on the financing of the Defence Technological and Industrial Base (DTIB), the conclusions of which are available at [www2.assemblee-nationale.fr/static/15/commissions/Defense/Rapport-BITD-170221.pdf](http://www2.assemblee-nationale.fr/static/15/commissions/Defense/Rapport-BITD-170221.pdf) and which were presented on 17 February 2021.

<sup>220</sup>. Statement by the President of the French Republic on the French and European weapons industries, Villepinte, 13 June 2022, available [in French] at [www.vie-publique.fr/discours/285399-emmanuel-macron-13062022-industrie-darmement](http://www.vie-publique.fr/discours/285399-emmanuel-macron-13062022-industrie-darmement).

<sup>221</sup>. See the report in the annex to the Military Programming Law for the years 2024 to 2030, available [in French] at [www.legifrance.gouv.fr/jorf/id/JORFTEXT000047914986](http://www.legifrance.gouv.fr/jorf/id/JORFTEXT000047914986). On this issue, see the letter addressed in 2022 to the Minister for the Armed Forces by the chair of the French Defence Industries Council (Cidef), available [in French] at [www.gifas.fr/press-summary/l-industrie-de-defense-alerte-sur-ses-difficultes-dans-sa-relation-avec-les-banques-et-les-fonds-d-investissement](http://www.gifas.fr/press-summary/l-industrie-de-defense-alerte-sur-ses-difficultes-dans-sa-relation-avec-les-banques-et-les-fonds-d-investissement).

<sup>222</sup>. In the same vein, see the director of the French Anti-Corruption Agency (AFA) in the context of the hearings conducted by the aforementioned [flash mission](#) of the National Assembly in reference to Law no 2016-1691 of the 9 December 2016 on transparency, the fight against corruption and the modernisation of economic life (the so-called Sapin II Law).

<sup>223</sup>. The banks falling within its scope are subject to the duty of vigilance Law. However, the Corporate Sustainability Due Diligence Directive (CSDDD) excludes the vast majority of the activities of financial actors (for a critique, see CNCDH, [Opinion on the European Commission's "Omnibus I" Proposal](#), 2025, *op. cit.*, §§25 *et seq.*).

<sup>224</sup>. The same applies for the obligations relating to anti-money laundering and the financing of terrorism, for example. For a reminder of the humanitarian exemptions that must be considered in this context, see CNCDH, [Opinion on Humanitarian Exemptions ...](#), 2024, *op. cit.*

<sup>225</sup>. As regards the Defence Readiness Omnibus, see the European Commission, '[New simplification proposal will speed up defence investments in the EU](#)', 17 June 2025; European Parliament, '[EU investments in defence: Council and Parliament agree to support faster, more flexible and coordinated investments in European defence](#)', 6 November 2025.

<sup>226</sup>. The duty of vigilance Law provides for two avenues to ensure compliance with the obligations it imposes: a preventive application for an injunction and a civil liability action (based on French tort law). However, it has not established any administrative surveillance assigned to a national authority for this purpose (CNCDH, [Business and Human Rights ...](#) [in French], 2023, *op. cit.*, pp. 254 *et seq.*). France should be required to create or designate such an authority for the purpose of transposing the CSDDD (subject to the Omnibus I negotiations).

<sup>227</sup>. According to the hearings conducted by the CNCDH, the export control authorities can nevertheless play a role in this regard, by paying attention to commercial channels or the integrity of intermediaries. However, compliance with the provisions of the duty of vigilance Law does not primarily fall within the remit of export control authorities, which, moreover, lack sufficient means to verify the existence and comprehensiveness of vigilance plans.

also serve to fulfil their duty of vigilance obligation.<sup>228</sup> This would require that the relevant institutions possess the appropriate resources (notably human and financial), that the public officials involved are trained in international human rights law and international humanitarian law and that effective coordination is ensured between the relevant authorities.

47. Furthermore, the CNCDH recommends that France support the continuation of discussions and work within the Conference of the States Parties on the role of industry in the responsible transfers of conventional arms, including on the application of human rights and international humanitarian law due diligence in this context, drawing on the relevant guidance from the Office of the United Nations High Commissioner for Human Rights, of the special procedures, as well as of the United Nations treaty bodies (**Recommendation 25**).

## 2.2. Exercising human rights and international humanitarian law due diligence in the context of arms transfer activities

48. Arms sector businesses must comply with the national control regime for exports of war materials and related materials and of defence-related products in accordance with their obligations under the Defence Code. In this respect, they are involved in implementing the ATT and the EU Common Position and *'need to take measures throughout the transfer chain to ensure that arms transfers are conducted responsibly and securely'*.<sup>229</sup> These measures stem from the national laws and regulations adopted by States in accordance with their international obligations, but also from regional and international norms and standards. As *'specialized organs of society'*,<sup>230</sup> businesses, including those in the arms sector,<sup>231</sup> are indeed required to respect human rights, as the United Nations Guiding Principles and the OECD Guidelines acknowledge. Where they operate in a context of armed conflict and their activities are linked to it, they must also respect international humanitarian law.<sup>232</sup> This responsibility – which exists independently of State's abilities or willingness to fulfil their own obligations in the matter – implies that they should *'avoid causing or contributing to adverse human rights impacts'* (negative component) and *'mitigate adverse human rights impacts that are directly linked to their operations'* (positive component).<sup>233</sup> To 'embed' their responsibility and put it into practice, businesses must adopt what are known as due diligence policies and procedures. These should be designed to identify and mitigate the (actual and potential) negative impacts the businesses may cause on human rights or to which they may contribute through their own activities, as well as those directly linked to their operations, products or services by their business relationships, and to prevent human rights violations and account for how they address them. The process thereby undertaken by the businesses themselves can be helpful in

<sup>228</sup>. In this regard, see ATT, [25 to 26/27 February 2025 WGETI Meeting \(...\)](#), 3 February 2025, *op. cit.*, annex B-2, §9.

<sup>229</sup>. They are responsible for *'making sure that their activities do not contribute towards or facilitate the delivery or diversion of conventional arms to situations that are prohibited under the ATT'*, President of the CSP9, 'The Role of Industry in Responsible International Transfers of Conventional Arms ...', 21 July 2023, *op. cit.*, §5. Moreover, they *'are responsible for most of the practical aspects that ensure that arms transfers are conducted responsibly and securely'*, MENSAH Anna et al., ['The Arms Trade Treaty: The Role of Industry ...'](#), 2023, *op. cit.*

<sup>230</sup>. UNGP, General Principles and Pillar 2. This responsibility stems from the [Universal Declaration of Human Rights](#) (UDHR) proclaimed by the United Nations General Assembly in 1948 *'to the end that every individual and every organ of society ... shall strive ... to promote respect for these rights and freedoms and ... to secure their universal and effective recognition and observance'*.

<sup>231</sup>. The UNGP apply to all businesses whatever their size, sector, operational context, ownership or structure (Guiding Principle 14, UNGP, *op. cit.*).

<sup>232</sup>. In this respect, see ICRC, French Red Cross and Australian Red Cross, ['Private Businesses and Armed Conflict. An introduction to relevant rules of international humanitarian law'](#), November 2024. Businesses are responsible for ensuring that their employees respect international humanitarian law and for promoting respect for it by other individuals with whom they maintain a relationship, whether government authorities, non-state armed groups, private sector businesses who are their clients or in their value chain, any entities in which they invest or to which they offer financial services, etc. (p. 4).

<sup>233</sup>. Guiding Principle 11, UNGP, *op. cit.*

ensuring compliance with the laws and regulations on arms transfers<sup>234</sup>, but goes beyond compliance procedures, authorisation processes and licensing requirements. Obtaining a licence, which authorises but does not oblige businesses to export the equipment concerned, does not exempt them from their responsibility to respect human rights and, where applicable, international humanitarian law. This is particularly the case in France since the enactment of Law No. 2017-399 of 27 March 2017 for the largest companies falling within its scope. Human rights and international humanitarian law due diligence by businesses in the arms sector – or the duty of vigilance where imposed by national or regional legislation – ‘*complement and reinforce*’ the obligation of States Parties ‘*to regulate arms transfers and the actors that are involved in those*’,<sup>235</sup> alongside their obligations under international human rights and international humanitarian law. The CNCDH recommends that arms sector businesses exercise human rights and international humanitarian law due diligence in all their activities and value chains, in accordance with the United Nations Guiding Principles and the OECD Guidelines and, where applicable, the duty of vigilance Law (**Recommendation 26**).

49. The responsibility to exercise human rights and international humanitarian law due diligence is increasingly recognised by arms sector businesses,<sup>236</sup> driven by the increase in mandatory and non-mandatory norms and the reaffirmation that these apply to this sector, as well as the growing expectations expressed by citizens and investors. However, its scope and application in practice, and how it interacts with States’ obligations still give rise to significant difficulties, particularly in the absence of sector-specific guidelines in this area (such as exist for other sectors – textile, mining, etc.). The gaps identified relate both to issues shared by all sectors<sup>237</sup> and to characteristics specific to the arms industry. Without revisiting all the implications of human rights and international humanitarian law due diligence for arms sector businesses, the CNCDH wishes to highlight some elements here which would help businesses exercise more robust due diligence for the benefit of more responsible arms transfers.

## Transparency

50. The first element concerns the obligation of external accountability through the communication of sufficiently detailed information on due diligence measures and their outcomes. This transparency aims to increase trust, ‘*demonstrate good faith*’<sup>238</sup> and foster internal and external control in order to ensure that the measures adopted are substantive, adequate and effective. The reluctance of arms sector businesses to disclose information concerning the negative impacts of their activities on human rights, on the grounds that this may harm their reputation and/or that commercial confidentiality or security concerns precludes such disclosure, is often highlighted.<sup>239</sup> In France, transparency is encouraged through reporting obligations and the requirement to publish a vigilance plan and to report on its

<sup>234</sup>. Thus, ‘*robust due diligence policies and processes on human rights*’ are mentioned among the measures they can take to ensure the security and integrity of arms transfers (President of the CSP9, *The Role of Industry ...*, 21 July 2023, *op. cit.*, §5).

<sup>235</sup>. ATT, *25 to 26/27 February 2025 WGETI Meeting ...*, 3 February 2025, *op. cit.*, annex B-2, §9.

<sup>236</sup>. This recognition has been slower, however, than in other high-risk sectors, particularly those for which specific legislation has been adopted (ALWISHEWA Hiruni, ‘*The Move Towards Human Rights Due Diligence Policies by the Arms Industry*’, Forum on the Arms Trade: *Looking Ahead 2024 Series*, 18 January 2024).

<sup>237</sup>. For a reminder of the gaps in the implementation of the French duty of vigilance Law (including a risk analysis which focuses on the risks for the company itself and for its employees rather than for all staff in its value chain as well as for third parties affected by its activities; incomplete vigilance plans and limited mainly to the obligation to issue a statement of intent, without adequately monitoring whether the measures it contains are being effectively implemented; and limited consultation of stakeholders), see CNCDH, *Business and Human Rights ...* [in French], 2023, *op. cit.*

<sup>238</sup>. OECD, *OECD Due Diligence Guidance for Responsible Business Conduct*, 2018, p. 19.

<sup>239</sup>. OHCHR 2024 report, *op. cit.*, §26. In particular, this report cites the 2020 *Defence Companies Index* of Transparency International, according to which, out of the 134 of the world’s largest defence companies, only 11 % published clear information to account for the customers of at least 80 % of their defence sales, the majority (76 %) publishing little to no meaningful information. Also see Part 3.2. on the difficulties associated with access to information. In its sustainability report, Dassault Aviation indicates that the information published on consumers and end-users ‘*only cover[s] customers in the civil sector for confidentiality reasons*’ (Dassault Aviation, ‘*2024 Annual Financial Report*’, p. 105).

effective implementation. Information can thus be located notably in the sustainability reports<sup>240</sup> and vigilance plans of the largest French arms companies; although this is a distinct exercise, as the duty of vigilance goes beyond a mere obligation to disclose. Aside from the question of the quality of the information published, the CNCDH notes the variability in accessibility and clarity, including where some negative impacts are identified in the sustainability reports but omitted from the risk mapping in the vigilance plans, despite potentially requiring mitigation and preventive measures under the duty of vigilance. It recommends that arms sector businesses improve their reporting on the potential and actual negative impacts of their activities on human rights and international humanitarian law, along with the mitigation and preventive measures adopted, by publishing sufficiently detailed, accessible and clear information, so as to enable an assessment of their effectiveness<sup>241</sup> (**Recommendation 27**).

## Risks identification and analysis

51. As regards risk analysis,<sup>242</sup> one of the major shortcomings stems from the failure to take account how the products (or services) of arms sector businesses are used by their clients.<sup>243</sup> In the majority of cases, the risk analysis is confined to respect for human rights within the business and to upstream activities in the value chain (such as production), by taking account of suppliers' compliance. However, due diligence should be exercised across the entire value chain, prioritising the most severe (or irremediable) risks which, in the arms sector, are precisely likely to arise downstream, if the arms risk being used to violate or contribute to a violation of human rights or international humanitarian law. It is not irrelevant that human rights are rarely mentioned in company policies relating to the sale and export of products. In fact, numerous companies in the sector continue to refer to strict compliance with national, European and international export control regulations '*as a substitute for human rights due diligence, arguing that home State approval fulfils their risk assessment responsibilities*'.<sup>244</sup> While companies generally detail the internal compliance procedures they have put in place to observe these regulations, as well as to apply international sanctions or restrictive measures, they often do not include these in their vigilance plans and measures. In the rare cases where potential adverse impacts are mentioned, including in a company's other public documents,<sup>245</sup> they are considered solely from the perspective of non-compliance with such regulations or sanctions. Yet the duty of vigilance exists independently from export controls, and risks relating to human rights and international humanitarian law may also arise from arms transfers that have been authorised<sup>246</sup> (or from the application of

<sup>240</sup>. These reports result from the transposition and application of Directive (EU) 2022/2464 as regards corporate sustainability reporting (CSRD), currently being revised in the context of Omnibus I.

<sup>241</sup>. In this regard, see the OHCHR 2024 report, *op. cit.*, §43.

<sup>242</sup>. The duty of vigilance under the duty of vigilance Law entails 'risk mapping' related to human rights and fundamental freedoms, the health and safety of persons and the environment in order to identify them, analyse them and prioritise them. It encompasses the company's own activities, but also the activities of companies it directly or indirectly controls, as well as those of its subcontractors and suppliers, provided that it maintains '*an established commercial relationship*' with them and that the activities in question are linked to this relationship (Art. L. 225-102-1 I. al. 3 of the Commercial Code). Similarly, applying the UNGP presupposes identifying and assessing the actual and potential impacts on human rights that the company may cause or to which it may contribute through its own activities or those directly linked to their operations, products or services by their business relationships.

<sup>243</sup>. In this regard, see SCHLIEMANN Christian and BRYK Linde, '[Arms Trade and Corporate Responsibility ...](#)', 2019, *op. cit.*; Amnesty International, '[Outsourcing Responsibility. Human Rights Policies in the Defence Sector](#)', September 2019. Also see the analysis of three French companies conducted by the NGO group observatory for corporate due diligence (*radar du devoir de vigilance*), '[Law on the duty of vigilance of parent companies and instructing undertakings. Year 1: Businesses must do better](#)' [in French], February 2019.

<sup>244</sup>. UNWGBHR, '[Responsible business conduct in the arms sector \(...\)](#)', 2022, *op. cit.*, p. 6; OHCHR, 'Impacts of arms transfers on human rights', 9 January 2025, *op. cit.*, §30.

<sup>245</sup>. See the elements related to the impacts on affected communities or populations mentioned in the Thales sustainability report ([2024 Universal Registration Document](#), 2025, pp. 142 *et seq.*).

<sup>246</sup>. OHCHR, 'Impacts of arms transfers on human rights', 9 January 2025, *op. cit.*, §28, which cites the examples of the licenced supply of arms by several manufacturers of arms used in the course of hostilities by Israel in Gaza and by the parties to the conflict in Yemen.

sanctions).<sup>247</sup> Although some developments have been observed among (non-French) businesses, which refer to and claim to take into account human rights risks in their export activities, the weight this consideration carries in decision-making is not explained (as the methodology chosen for identifying and analysing the risks is rarely detailed), and international humanitarian law is not mentioned.<sup>248</sup> The CNCDH recommends that French businesses conduct their own risk assessments in relation to human rights and international humanitarian law, in addition to those undertaken by export and import control authorities, and that they cover the entire value chain, both upstream and downstream, in order to include their clients' use of products/services in particular (**Recommendation 28**). Internal Compliance Programmes (ICP) could serve not only to ensure respect for the export control regulations and licence granting conditions, but also to check whether there are substantial risks that the arms might be used for unlawful purposes,<sup>249</sup> by adopting due diligence measures with regard to the export of goods to end-users and for end-uses.<sup>250</sup> In addition, the risk analysis should be regularly reassessed, before, during and after the transfer, due to the ongoing nature of the duty of vigilance.<sup>251</sup> Businesses should take account of all relevant information at their disposal and should pay particular attention to information indicating serious violations of human rights and/or international humanitarian law that may result from the use of weapons of war. Furthermore, information-sharing on end-users and end-use (beyond end-user certificates) can help the competent authorities in their assessment of human rights and international humanitarian law risks prior to transfer, or in their reassessment after transfer. It features among the concrete examples of the links between corporate due diligence and States' obligations as referred to in the context of the Conference of States Parties.<sup>252</sup>

## Measures to mitigate risks and prevent violations

52. The risk identification and analysis by businesses must enable appropriate measures to be adopted to mitigate actual or potential risks and prevent violations. Their implementation must be monitored and their effectiveness assessed. These measures are distinct from but can be a useful addition to the mitigation measures adopted by States in accordance with Articles 7 and 11 of the ATT (on assessing export risks and preventing diversions). They may include, in particular, measures aimed at improving the traceability of equipment. The OECD National Point of Contact in France (hereinafter the French NPC) has recommended, for example, that a company '*systematically consider the possibility of requesting a non-re-export certificate and of assessing the extent to which the customer has understood the recommended use parameters for its products*'.<sup>253</sup> The NPC also draws attention to the fact that '*should the customer repeatedly fail to fulfil its commitments to [the company], the enterprise should undertake to suspend or even terminate its business relationship with the customer, as recommended by the OECD*'.<sup>254</sup> However, it is particularly regrettable that the NPC considers that, by fully complying with the Government's decisions (relating in the case in point to the export of a dual-use good) – which the NCP has no mandate to evaluate – '*the enterprise was, ipso facto, in compliance with the requirements*

<sup>247</sup>. In this regard, see CNCDH, [Opinion on Humanitarian Exemptions \(...\)](#), 2024, *op. cit.*

<sup>248</sup>. KANETAKE Machiko and RYNGAERT Cedric, '[Due diligence and corporate liability of the defence industry. Arms exports, and use and corporate responsibility](#)', Flemish Peace Institute, 10 May 2023, p. 32; ALWISHEWA Hiruni, '[The Move Towards Human Rights Due Diligence Policies by the Arms Industry](#)', 2024, *op. cit.*

<sup>249</sup>. VERDEBOUT Agatha, '[The weapons industries: exports and due diligence](#)' [in French], GRIP, 21 November 2023.

<sup>250</sup>. As is the case for cybersurveillance items under the Regulation on dual-use items (see above).

<sup>251</sup>. See Art. L. 225-102-1 of the Commercial Code which imposes '*procedures for regularly assessing the situation ... in light of the risk mapping*' and '*a mechanism for monitoring the measures implemented and for assessing their effectiveness*' (free translation), as well as Guiding Principle 17 of the UNGP.

<sup>252</sup>. ATT, [25 to 26/27 February 2025 WGETI Meeting \(...\)](#), 3 February 2025, *op. cit.*, annex B-2, §9.

<sup>253</sup>. Press release from the French NPC, '[The French NCP encourages Alsetex to expand and finalise its responsible business conduct policy](#)', 4 July 2016. Regarding this specific circumstance – Alsetex in Bahrein – about tear gas exports to Bahrein, which was reportedly used to commit human rights violations, see the information available at [www.tresor.economie.gouv.fr/tresor-international/pcn-france/circonstance-specifique-asetex-au-bahrein](http://www.tresor.economie.gouv.fr/tresor-international/pcn-france/circonstance-specifique-asetex-au-bahrein).

<sup>254</sup>. *Ibid.* Also see §22 of the Chapter II commentaries of the OECD Guidelines, *op. cit.*

of responsible conduct vis-à-vis human rights'.<sup>255</sup> This analysis disregards the distinction between State obligations and corporate responsibilities that this opinion seeks precisely to clarify. Businesses should, in particular, suspend their business relationships, or and even terminate them<sup>256</sup>, under certain conditions, for example in cases of repeated misuse of arms or if these are used to commit (serious) violations of human rights or international humanitarian law, regardless of whether the relevant licence has been suspended – otherwise they may find themselves potentially liable. Businesses could include provisions in their contracts to this effect. Likewise, they must be able to refuse a sale for reasons linked to human rights and international humanitarian law, even where the sale is authorised by a licence.<sup>257</sup> For example, several United Nations Special Rapporteurs have called on arms and ammunition manufacturers who supply Israel to end transfers, 'even if they are executed under existing export licenses', to avoid the risk of being complicit in serious violations of international human rights and international humanitarian laws.<sup>258</sup> The same call has been made to financial institutions which invest in arms companies.<sup>259</sup> Before disengaging from a business relationship, the business concerned should use its influence as leverage to bring about changes in practices that infringe human rights.<sup>260</sup> For manufacturers of arms (or ammunition, parts and components) maintenance in operational condition (MOC) of equipment already delivered and, more specifically, maintenance, where these are entrusted to them,<sup>261</sup> should be among these levers. The Maire-Tabarot Report thus emphasises that maintenance, which 'creates continuity between business and client' may be 'a highly effective lever for retaining control over equipment already delivered'.<sup>262</sup> It helps with the traceability of products sold and the way in which they are used. It is also a lever for the State which 'depending on the concerns linked to the use of the equipment [can] refuse, suspend or revoke a maintenance contract still under licence'.<sup>263</sup>

53. The scope and complexity of the means by which businesses discharge their responsibility to respect human rights can vary, particularly depending on their size, structure, operational context and, above all, the severity of their adverse human rights impacts.<sup>264</sup> Industry representatives emphasise the challenges linked, for example, to complex supply chains and to issues of determining where accountability rest, as many businesses do not produce end use military products but rather parts and components for integrating into larger systems.<sup>265</sup> The United Nations Working Group on Business and Human Rights recommends that businesses and business associations 'Ensure that the complexity of Human Rights Due Diligence processes is commensurate with the business's position in the arms sector

<sup>255</sup>. *Ibid.* The NCP concludes from the company's full compliance with the French regulation on dual-use goods that 'the French government, as part of its authorisation process, carried out the due diligence recommended by the OECD'.

<sup>256</sup>. Some businesses make provision in their human rights policies for terminating a business relationship in the event of a human rights violation, but this provision targets principally the suppliers rather than customers, despite them posing the 'most salient risks': ALWISHEWA Hiruni, 'The Move Towards Human Rights Due Diligence Policies by the Arms Industry', 2024, *op. cit.*

<sup>257</sup>. For examples of this, see ALWISHEWA Hiruni, 'The Move Towards Human Rights Due Diligence Policies by the Arms Industry', 2024, *op. cit.*

<sup>258</sup>. UN Info, 'States and companies must end arms transfers to Israel immediately or risk responsibility for human rights violations: UN experts', 20 June 2024.

<sup>259</sup>. *Ibid.* Good practice which is often highlighted concerns the Norwegian Government Pension Fund. It provides criteria for excluding companies, notably based on the risks of violations of international human rights or humanitarian law, and has established a Council of Ethics to assess these (OHCHR 2025 report, *op. cit.*, §31). The governor of the Central Bank of Norway has, nevertheless, recently opened the door to changes (FOUCHE Gwladys, 'Norway may need to let \$1.8 trillion sovereign fund take stakes in arms makers, says central bank chief', 13 February 2025).

<sup>260</sup>. In this respect, see the campaign to get Airbus to use leverage on Aviation Industry Corporation of China (AVIC) to end its business relationship with the Myanmar military or divest: Justice for Myanmar, 'Airbus divests from Chinese Arms Company Following Global Campaign', 19 June 2025.

<sup>261</sup>. For more information about this, see Senate, 'Information Report 4 (2024-2025) on maintenance of operational condition of military equipment' [in French], LEGGE Dominique de (rapporteur), 2 October 2024.

<sup>262</sup>. National Assembly, MAIRE J. and TABAROT M. Report, *op. cit.*, pp. 87 *et seq* (free translation). However, the authors view this with caution, identifying serious political consequences that could arise from interrupting MCO.

<sup>263</sup>. *Ibid.* (free translation).

<sup>264</sup>. Guiding Principle 14, UNGP, *op. cit.*

<sup>265</sup>. ATT, 'Working Group on Effective Treaty Implementation, Chair's report to CSP11', 2025, *op. cit.*, §22.

value chain and its risk of causing or contributing to human rights abuses'.<sup>266</sup> As this risk is greater in 'conflict-affected areas',<sup>267</sup> these processes should be enhanced in situations of heightened risks, such as armed conflicts, internal upheaval or other situations of widespread violence.<sup>268</sup> Therefore, businesses must take enhanced measures to address their impacts on people and adopt conflict-sensitive practices<sup>269</sup> so as to take account of their impacts on the dynamics of the conflict and to mitigate them.<sup>270</sup> The CNCDH recommends that arms sector businesses adopt adequate and proportionate measures to mitigate risks and prevent violations, assess their effectiveness and monitor their implementation, ensuring that they take account of the particularly high risks of violations of human rights and/or international humanitarian law in situations of armed conflict or of other situations of widespread violence (**Recommendation 29**). These measures must be identified together with stakeholders, including trade unions,<sup>271</sup> who should be involved and consulted at every stage of the due diligence process. In particular, the CNCDH recommends that arms export businesses provide training for their export control staff in human rights and international humanitarian law (**Recommendation 30**).

## Grievance and remediation mechanisms

54. Businesses should draw on the information gathered through alert and reporting mechanisms or the grievance mechanisms they are required to establish or in which they must participate in order to adapt their due diligence measures and practices, as well as adopt, where required, appropriate remedies (**Recommendation 31**). Where a case is brought as part of judicial<sup>272</sup> or non-judicial proceedings concerning allegations of human rights and/or international humanitarian law violations, they should cooperate in good faith with these proceedings, including by disclosing all relevant information, with the exception of information that is legitimately protected, and in compliance with the rights of the defence (**Recommendation 32**). In this regard, the CNCDH underlines the fact that exercising human rights and international humanitarian law due diligence, in a manner consistent with national and regional legislation as well as the relevant international standards, is a useful means of preventing legal risk.<sup>273</sup> Thus, the work by the ATT Conference of the States Parties indicates that it 'can reduce industry actors' risk of incurring civil or criminal liability in case their transferred arms are misused'.<sup>274</sup> The same applies to reputational risk, whether for arms manufacturers or businesses involved, in particular, in the financing, insurance or transport of arms.<sup>275</sup> Moreover, due diligence is also likely to increase trust in the industry and to act as a source of strategic legitimacy.<sup>276</sup> Exercising such

<sup>266</sup>. UNWGBHR, '[Responsible business conduct in the arms sector \(...\)](#)', 2022, *op. cit.*, p. 8.

<sup>267</sup>. Guiding Principle 7, UNGP, *op. cit.* This undefined concept is used to describe a variety of contexts in which high levels of violence prevail: UNGP, '[Heightened Human Rights Due Diligence for Business in Conflict-Affected Contexts: A Guide](#)', 2022.

<sup>268</sup>. UNWGBHR, '[Responsible business conduct in the arms sector \(...\)](#)', 2022, *op. cit.*, p. 8.

<sup>269</sup>. For a range of practical questions to examine for assessing the risks inherent to providing support to the parties to an armed conflict, see ICRC, '[Allies, Partners and Proxies: Managing Support Relationships in Armed Conflict to Reduce the Human Cost of War](#)', August 2022.

<sup>270</sup>. UNGP, '[Heightened Human Rights Due Diligence for Business in Conflict-Affected Contexts: A Guide](#)', 2022.

<sup>271</sup>. For an example of the involvement of trade unions on these issues, see the open letter, '[CGT Thales demands an end to trade with Israel](#)' [in French], 16 September 2024; '[Guidance note on the position of CGT Thales as regards the arms industry](#)' [in French], June 2024.

<sup>272</sup>. See the (criminal case) examples given in Part 3.2. of this Opinion. In addition, see the injunction proceedings before the Paris Judicial Tribunal against BNP Paribas based on the duty of vigilance Law, *Le Parisien*, '[BNP Paribas taken to court for failing to mention all its activities with Israel](#)' [in French], 27 June 2025; JURDI press release, '[JURDI summons BNP Paribas before the Paris Judicial Tribunal for a failure to fulfil its legal obligations in the context of the Israeli-Palestinian conflict](#)' [in French], 27 June 2025.

<sup>273</sup>. Exercising due diligence does not absolve them from their liability on other grounds, however.

<sup>274</sup>. ATT, '[25 to 26/27 February 2025 WGETI Meeting \(...\)](#)', 3 February 2025, *op. cit.*, annex B-2, §9. On potentially incurring civil or criminal liability, see Part 3.2. below.

<sup>275</sup>. President of the CSP9, *The Role of Industry in Responsible International Transfers of Conventional Arms ...*, 21 July 2023, *op. cit.*, §4 (on the subject of effective implementation of and respect for the ATT).

<sup>276</sup>. Centre for European Security Strategies (CESS), '[CSR and the defence industry: what are the issues at a time of European rearmament?](#)' [in French], May 2025.

due diligence is therefore in the interest both of businesses in the sector and of the people and populations it seeks to protect.

## 3. Fostering genuine parliamentary and judicial oversight of arms transfers

---

55. External control 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 spheres of competence – by the legislative and judicial powers. The CNCDH notes that parliamentary oversight, despite being recently strengthened, remains very limited, while judicial review is constrained or still in its infancy. The obstacles to these external controls raise questions about the legitimacy as well as the legality and lawfulness of the decisions taken in the context of France’s arms transfer policy. Yet they can be overcome. The following developments are intended to formulate recommendations to foster democratic control of arms transfers, in particular by strengthening parliamentary oversight (3.1), as well as to ensure respect for the legality and lawfulness of arms transfers by securing judicial review (3.2).

### 3.1. Strengthening the necessary parliamentary oversight of arms transfers

56. Parliaments – through their legislative, budgetary and control functions – play a key role in strengthening national arms transfer control systems, promoting greater transparency and controlling the action of governments in the matter. The importance of their involvement in promoting the universalisation of the ATT, guaranteeing its effective implementation and holding their respective governments accountable for their obligations under the Treaty is illustrated by the strategic partnership established as part of the work of the Conference of the States Parties with the Inter-Parliamentary Union (IPU).<sup>277</sup>

57. In France, the low level of information and the absence of Parliament’s genuine power of control over arms transfers have long been source of criticism.<sup>278</sup> The annual report addressed to Parliament since 1998 on France’s arms exports has been hailed as ‘*decisive progress*’.<sup>279</sup> But it is regularly criticised for its lack of clarity and incompleteness. Acknowledging that ‘*the French people need transparency*’ and that this ‘*democratic requirement*’ demands a response, the Minister for the Armed Forces stated in 2019 its intention to make the report ‘*more accessible, more precise and detailed*’.<sup>280</sup> Since then, the annual report to Parliament has been presented as responding to the ‘*imperative of responsibility and transparency towards the national representation, and the French people at large*’.<sup>281</sup> Nevertheless, it remains an unfinished exercise in transparency and cannot be considered a genuine instrument of

---

<sup>277</sup>. ATT, CSP11, [Final Report](#), 29 August 2025, *op. cit.*, §23 b).

<sup>278</sup>. National Assembly, [Information Report on arms export control](#) [in French], SANDRIER Jean-Claude, MARTIN Christian and VEYRET Alain (rapporteurs), 25 April 2000. This report from the first fact-finding mission devoted to the subject noted: ‘*What is best known about the French arms export control system is its opacity. Indeed, the entire system seems like a sort of black box, a world of the initiated applying unknown rules in an uncontrollable manner. Worse still, this situation leads some to consider that, in reality, arms exports in France are not governed by any rule*’ (p. 17; free translation).

<sup>279</sup>. *Ibid.*, p. 198.

<sup>280</sup>. MINARM, [Report to Parliament on France’s Arms Exports 2019](#) [in French], p. 3 (free translation).

<sup>281</sup>. MINARM, [Report to Parliament on France’s Arms Exports 2024](#), p. 3.

control. The fact-finding mission on arms export control, set up against the backdrop of the armed conflict in Yemen, submitted a critical report in 2020, stating that *‘France is significantly falling behind in terms of involving Parliament in arms-related matters’*.<sup>282</sup> It drew up a series of proposals for improving the information given to parliament and for equipping it with genuine power to exercise control.<sup>283</sup> In 2021, the Government undertook to take into account some of the proposals put forward by the parliamentary fact-finding mission’s report.<sup>284</sup>

58. The CNCDH welcomes the fact that, since 2022, the annual report to Parliament on arms exports has been supplemented by a report on France’s exports of dual-use goods<sup>285</sup>, and that together they are the subject of a joint hearing by the defence and armed forces committee, the foreign affairs committee and the economic affairs committee of the National Assembly.<sup>286</sup> This joint hearing must provide an overall vision of the Government’s action in the export of war material and dual-use goods, bring together different and complementary perspectives and present them *‘to Members of Parliament in a position to assess all the grounds justifying the exports of arms [and dual-use goods] or their refusal’*.<sup>287</sup> It is equally welcome that the Defence Code formalises this periodic presentation to the National Assembly and the Senate of the Government’s policy in this matter.<sup>288</sup> However, the CNCDH notes that no (public) hearing appears to have been organised by the Senate to this effect and it recommends that the annual reports to Parliament on arms and dual-use goods exports be the subject of a joint hearing by the relevant Senate committees as well (**Recommendation 33**). It also recommends that they be the subject of a debate in open session at the National Assembly and the Senate (**Recommendation 34**). As the 2020 report of the parliamentary fact-finding mission points out, this debate would enable the Government *‘to explain France’s export strategy and to engage in an adversarial debate with all Members of Parliament before the public’*.<sup>289</sup> From 2000, Members of Parliament have insisted on *‘the public and political affirmation [of the principles underlying France’s arms exports], as befits a democratic country’*.<sup>290</sup> Furthermore, the CNCDH notes the improved communication regarding the annual activity report of the Ministerial Committee for Ex-Post Control. This is now transmitted not only to the office of the Minister for the Armed Forces and the SGDSN (who chairs the CIEEMG) but also – as recommended by the Court of Auditors – to the chairs of the standing committees on defence of the National Assembly and the Senate.<sup>291</sup> The CNCDH recommends that it also be presented to the chairs of the committees responsible for foreign affairs and economic affairs, as well as to all members of the CIEEMG<sup>292</sup> (**Recommendation 35**).

<sup>282</sup>. National Assembly, MAIRE J. and TABAROT M. Report, *op. cit.*, p. 108 (free translation).

<sup>283</sup>. The fact-finding mission report also focuses on strengthening administrative control of war material and dual-use goods and calls for greater European integration on defence and armaments.

<sup>284</sup>. Prime minister’s press release, [‘Briefing on the proposals of the parliamentary fact-finding mission on arms exports’](#) [in French], 21 June 2021.

<sup>285</sup>. See the fourth report in this regard: MINEFI, [France’s dual-use goods exports. Report to Parliament](#) [in French], October 2025. In addition, the functioning of the Interministerial Commission for Dual-Use Goods (CIBDU) has been reformed and the arbitration processes for authorising exports of dual-use goods has been brought into line with that for war material.

<sup>286</sup>. See the recommendation formulated to that effect: CNCDH, *Opinion on the draft ATT*, 2013, *op. cit.*, §34, Recommendation 17.

<sup>287</sup>. MAIRE J. and TABAROT M. Report, *op. cit.*, pp. 130-131 (free translation). Such a recommendation had also been formulated twenty years earlier by the previous parliamentary fact-finding mission (SANDRIER J.-C., MARTIN C. and VEYRET A. Report, 2000, *op. cit.*, proposal 3).

<sup>288</sup>. See Art. D. 2335-46 of the Defence Code, created by [Decree No. 2021-885 of 2 July 2021 related to Parliament’s briefing on the export policy for arms and dual-use goods](#) [in French], *JORF* No. 0154 of 4 July 2021, text No. 1.

<sup>289</sup>. MAIRE J. and TABAROT M. Report, *op. cit.*, p. 131, proposal 34 (free translation). Such a recommendation had also been formulated by the 2000 fact-finding report, *op. cit.*, proposal 3.

<sup>290</sup>. SANDRIER J.-C., MARTIN C. and VEYRET A. Report, 2000, *op. cit.*, p. 193 (free translation).

<sup>291</sup>. [Law No. 2023-703 of 1 August 2023 related to military programming for the years 2024 to 2030 and containing various defence-related provisions](#) [in French] (hereinafter LPM 2024-2030), *JORF* No. 0177 of 2 August 2023, text No. 1, Art. 53.

<sup>292</sup>. In this regard, see Court of Auditors, *Support for exports of military equipment*, 2023, *op. cit.*, Recommendation 2.

59. The creation, under the Military Programming Law for the years 2024-2030,<sup>293</sup> of a parliamentary commission specifically dedicated to evaluating the Government’s policy on the exports of war materials and related materials, the transfers of defence-related products and the exports and transfers of dual-use goods represents the most significant development. This bicameral committee comprises six members (three members of the National Assembly and three senators, including the chairs of the National Assembly and Senate defence committees, who are *ex officio* members.)<sup>294</sup> It is appropriate that its statutory remit includes not only the task of ‘*taking note*’ of the Government’s annual report to Parliament on arms exports, but also of the activities of the CIEEMG and the CMCAP.<sup>295</sup> Nonetheless, the capacity of its members to effectively evaluate the activities of the commissions responsible for ex-ante and ex-post control respectively is hampered by the lack of access to classified information. The CNCDH regrets that the legislature has chosen in effect to restrict the composition of the committee to a limited number of elected representatives, without entitling them to access confidential information necessary for the exercise of their mandate.<sup>296</sup> This lack of authorisation to access classified national defence information is all the more regrettable given that the precedent set by the Parliamentary Delegation for Intelligence (DPR)<sup>297</sup> has regularly been highlighted.<sup>298</sup> The CNCDH recommends that the legislature extend the composition of the evaluation commission,<sup>299</sup> while ensuring pluralist representation is maintained, and authorise its members to access information classified as national defence secret under Article 413-9 of the Criminal Code (**Recommendation 36**). It further notes that the law does not explicitly mention its role in controlling government action and evaluating public policy<sup>300</sup> as regards the export of war materials and related materials and dual-use goods, as is the case for the DPR. Furthermore, its remit is much more restricted than that recommended by the parliamentary fact-finding mission.<sup>301</sup> Criticisms of the limited nature of its competence raise questions about its ability to genuinely control the export of arms and dual-use goods.<sup>302</sup> The CNCDH recommends that the legislature widen the remit of the parliamentary commission for evaluating government policy on exports of war materials and related materials, transfers of defence-related products and exports and transfers of dual-use goods, so as to effectively enable it to exercise its function of controlling government action and

<sup>293</sup>. LPM 2024-2030, *op. cit.*, Art. 54.

<sup>294</sup>. See the information on its current composition available [in French] at [www.senat.fr/salle-de-presse/communiqués-de-presse/presse/16-01-2025/la-commission-parlementaire-devaluation-de-la-politique-du-gouvernement-dexportation-de-materiels-de-guerre-a-designe-son-president-le-senateur-cedric-perrin.html](http://www.senat.fr/salle-de-presse/communiqués-de-presse/presse/16-01-2025/la-commission-parlementaire-devaluation-de-la-politique-du-gouvernement-dexportation-de-materiels-de-guerre-a-designe-son-president-le-senateur-cedric-perrin.html).

<sup>295</sup>. LPM 2024-2030, *op. cit.*, Art. 54 (free translation). The committee also takes note of ‘*an overview of the global arms export market, international competition, developments in demand and the results obtained by French industry*’ and may hear from the ministers for defence, for foreign affairs and for the economy.

<sup>296</sup>. If the parliamentary fact-finding mission proposed assigning parliamentary control to a limited delegation, it was in order to enable its members to access classified information (National Assembly, MAIRE J. and TABAROT M. Report, *op. cit.*, Proposal 30).

<sup>297</sup>. [Law No. 2007-1443 of 9 October 2007 concerning the creation of a Parliamentary Delegation for Intelligence](#), JORF No. 235 of 10 October 2007, text No. 2 [in French], which creates Art. 6 h of [Ordinance No. 58-1100 of 17 November 1958 on the functioning of parliamentary assemblies](#) [in French].

<sup>298</sup>. Amendments were submitted in this regard as part of the review of draft LPM 2024-2030. Also see proposal 32 of the MAIRE J. and TABAROT M. Report, *op. cit.*, pp. 123 *et seq.*

<sup>299</sup>. See also the recommendation of the 2000 parliamentary fact-finding mission to create a consultative commission on arms exports (composed of representatives of the SGDSN, non-governmental organisations, industrial companies and employees’ organisations in the sector, as well as qualified individuals), which main task would be to examine the annual report (SANDRIER J.-C., MARTIN C. and VEYRET A. Report, 2000, *op. cit.*, proposal 2).

<sup>300</sup>. This role is mentioned in the 2022 report to Parliament (MINARM, [Report to Parliament on France’s Arms Exports 2022](#) [also available in its full [French version](#)], pp. 37 *et seq.*).

<sup>301</sup>. Possibility of consulting export licences, applications having been met with an implicit or explicit refusal or withdrawn from consideration, opinions issued by the CIEEMG, high-level directives from the SGDSN and the CIBDU, reports of controls forwarded to the CMCAP and, where applicable, reports from the relevant inspection bodies in this field (MAIRE J. and TABAROT M. Report, *op. cit.*, proposal 33).

<sup>302</sup>. See the open letter addressed to members of Parliament from the *Ligue des Droits de l’Homme* (LDH), the International Federation for Human Rights (FIDH) and the *Observatoire des armements*, ‘[Democratic oversight of arms exports in France](#)’ [in French], 25 January 2025.

evaluating public policy in the matter<sup>303</sup> (**Recommendation 37**). In addition, in order to ensure that the commission accounts for its activities, the CNCDH recommends that the legislature make provision for it to produce an annual public report setting out a review of its work, redacted of elements covered by national defence secrecy<sup>304</sup>, and including observations and recommendations on the Government's annual reports on arms and dual-use goods export policy (**Recommendation 38**).

60. The CNCDH observes the slow establishment of this commission. The appointment of its members, which should have taken place in December 2023, did not happen until April 2024. Delayed by the dissolution of the National Assembly, the commission was not set up and did not hold its first constitutive meeting until January 2025<sup>305</sup> and its first 'substantive' meeting did not take place until May 2025. The CNCDH recommends that the evaluation commission meet on a monthly basis and hold regular hearings of individuals involved in arms and dual-use goods exports (relevant members of the government and administration), as well as, in particular, representatives of non-governmental organisations which deal with these subjects, industry representatives, trade unions and workers' elected representatives from the sector, and qualified individuals (**Recommendation 39**).

61. The exercise by Parliament of its constitutional role of scrutinising government action furthermore presupposes better informed members of parliament, so that they are in a position to take a critical and concrete view of how the administrative control mechanism operates, as well as a greater ownership of public policy on arms transfers. It is with this objective in mind that the recommendations put forward by the CNCDH to improve the content of the annual report to Parliament on France's arms exports have been formulated; over and above the access to confidential information that ought to be granted to certain members of parliament. While the Government has indeed supplemented the information contained in its annual reports to Parliament by taking account of some of the proposals formulated by the 'Maire-Tabarot Report',<sup>306</sup> this information remains insufficient. The CNCDH also recommends that, in its annual report to Parliament, the Government provide a more comprehensive overview of existing exchanges between Government and Parliament on France's arms export policy, including by annexing the list of oral and written questions submitted by members of the National Assembly and senators in this regard, together with the corresponding answers – as is the practice in the Netherlands<sup>307</sup> – and likewise the list of hearings plus any fact-finding missions and commissions of enquiry devoted to it<sup>308</sup> (**Recommendation 40**). In principle, these tools form part of the other means at the disposal of Members of Parliament to question the Government on its arms transfer policy, even if they do not currently permit the exercise of genuine control.<sup>309</sup>

---

<sup>303</sup>. This function would benefit from being explicitly stated in law.

<sup>304</sup>. Understood in the sense of Recommendation 41 below.

<sup>305</sup>. This [constitutive meeting](#) was devoted to appointing its chair and an exchange of views among its members regarding drawing up a timetable of work.

<sup>306</sup>. The 2022 annual report sets out the actions implemented to take account of the recommendations formulated by the 'Maire-Tabarot Report': MINARM, [Report to Parliament on France's Arms Exports 2022](#) [also available in its full [French version](#)], pp. 37 *et seq.*

<sup>307</sup>. Netherlands, [Dutch Arms Export Policy in 2023](#), November 2024, pp. 15 *et seq.*

<sup>308</sup>. The CNCDH notes that none of the requests to establish parliamentary commissions of inquiry dealing with France's arms exports has, to date, been successful. The draft resolutions related to the conflict in Yemen presented by members of the National Assembly ([No.856](#), [No.1136](#), [No.1668](#), [No.1878](#), [No.1913](#)) and by one senator ([No.467](#)) had no public follow-up (although one proposal to establish a commission of inquiry did lead to the setting up of a fact-finding mission in 2018). The same applies, to date, with [draft resolution No.2418](#) of 29 March 2024 seeking the establishment of a commission of inquiry on France's complicity in the massacre underway in Gaza. Moreover, just one draft resolution submitted in 2021 and aimed at creating a commission of inquiry has received a reasoned (negative) reply: National Assembly, [Report on behalf of the National Defence and Armed Forces Committee on draft resolution No. 2865 seeking to establish a commission of inquiry into the procedures and control of arms sales and shipments abroad](#) [in French], VAUCHEZ André (rapporteur), 16 May 2001.

<sup>309</sup>. In this respect, see: MAIRE J. and TABAROT M. Report, *op. cit.*, p. 121, which finds that the conditions for involving members of Parliament are not fulfilled.

62. Parliamentary oversight is essential for the responsible and democratic regulation of the arms trade. It serves a dual purpose. On the one hand, that of controlling the actions of the government and ensuring France respects its international obligations by enabling the quality of the process of examining licence applications and of monitoring authorised transfers to be evaluated. On the other hand, that of being accountable and ‘*permitting an informed debate before the public opinion*’,<sup>310</sup> in order to strengthen the legitimacy of the relevant decisions taken and of government policy. None of the grounds commonly invoked to justify resistance<sup>311</sup> to parliamentary oversight in France appears to be genuinely well-founded. It is indeed within the constitutional prerogatives of Parliament to scrutinise government action and evaluate public policies, including in the area of arms exports and transfers.<sup>312</sup> National defence secrecy, trade secrets and the confidentiality required for France’s diplomatic relations with its strategic partners are also invoked to support restrictions on access to information on arms transfers. The CNCDH recalls that restrictions on access to information are strictly laid down by law. It notes that the 2020 report of the fact-finding mission, while recognising the need to protect national defence secrecy, finds that this is sometimes interpreted in a manner that is unnecessarily broad and calls for its scope to be redefined ‘*in order to strike a better balance between the protection of sovereignty and access to information*’.<sup>313</sup> The CNCDH further notes that, whilst previously the exception, the regular publishing of international arms transfer data, despite being incomplete,<sup>314</sup> has become common practice for many States involved in the arms trade. The major arms manufacturers and exporters who have already demonstrated transparency for several years do not seem to have been penalised either commercially<sup>315</sup> or in terms of security. On the contrary, greater transparency is viewed as an asset for France’s international action and defence policy by the parliamentary fact-finding missions in 2000<sup>316</sup> and 2020.<sup>317</sup> It can help reinforce the legitimacy of authorised arms exports. The transparency efforts made by France regarding the conflict in Ukraine show that it is possible.<sup>318</sup> The CNCDH recommends that the Government narrowly interpret the restrictions on the right of access to information relating to arms transfers provided by law and pursuing legitimate objectives, and ensure that it confines itself to those which are strictly necessary and proportionate<sup>319</sup>, so as to guarantee access to information in the public interest and the possibility of public debate (**Recommendation 41**). An additional qualitative leap could thus be achieved that would enable ‘*Parliament to be genuinely informed*’<sup>320</sup> along with French citizens and would encourage democratic control of arms exports and transfers.

<sup>310</sup>. National Assembly, MAIRE J. and TABAROT M. Report, *op. cit.*, pp. 116 *et seq* (free translation).

<sup>311</sup>. See the SGDSN note revealed by *Disclose*, ‘Arms Sales: the executive declares war on Parliament’ [in French], 7 December 2020.

<sup>312</sup>. Art. 24 of the French Constitution of 4 October 1958. While the principle of the separation of powers has been invoked to view the control of arms exports as residing solely within the government’s jurisdiction, it does not in fact in any way preclude the exercise of ex-post control by parliament.

<sup>313</sup>. MAIRE J. and TABAROT M. Report, *op. cit.*, proposal 18 (free translation). Already in 2013, the CNCDH warned about ‘*the exemptions [from the draft ATT] justified by “national security” and the “sensitivity” of commercial issues*’, in the face of the risk that, in practice, they allow States to withhold essential information, and invited the Government to address these serious shortcomings (CNCDH, *Opinion on the draft ATT*, 2013, *op. cit.*, §33, free translation).

<sup>314</sup>. The limited nature, reliability and accessibility of the information published form part of the concerns of the OHCHR as regards access to information on arms transfers (2024 OHCHR Report, *op. cit.*, §16).

<sup>315</sup>. Particularly as transparency does not require technical specifications or detailed information on prices and contracts to be revealed.

<sup>316</sup>. SANDRIER J.-C., MARTIN C. and VEYRET A. Report, 2000, *op. cit.*, p. 15.

<sup>317</sup>. MAIRE J. and TABAROT M. Report, *op. cit.*, pp. 20-21.

<sup>318</sup>. MINARM, ‘[Ukraine: France takes stock of the military equipment delivered](#)’ [in French], 4 March 2024; ASMOUN Faouzi, ‘[War in Ukraine: in the face of controversy, France reveals the list of arms delivered to Ukraine](#)’ [in French], *La Dépêche*, 4 March 2024.

<sup>319</sup>. In this regard, see the 2024 OHCHR Report, *op. cit.*, §42 a). In particular, the OHCHR stresses the positive obligation to publish information proactively (§9), quoting the Human Rights Committee in this regard (ICCPR, [General Comment No. 34. Article 19: Freedoms of opinion and expression](#), 12 September 2021, CCPR/C/GC/34, §19).

<sup>320</sup>. MAIRE J. and TABAROT M. Report, *op. cit.*, p. 108 (free translation).

63. Effective parliamentary oversight also calls for Members of Parliament to make better use of the tools at their disposal to hold Government to account (**Recommendation 42**). This could notably be facilitated by more frequent exchanges with their counterparts, particularly those in Europe, on their respective practices<sup>321</sup> (**Recommendation 43**). Moreover, Members of Parliament should increase their involvement in raising awareness of the rules governing arms transfers, particularly the ATT and the Common Position 2008/944/CSFP, and of the risks that these transfers potentially pose to human rights and international humanitarian law (**Recommendation 44**). Members of Parliament also have a role to play in improving corporate responsibility in the arms sector, including by questioning companies on how they implement their human rights and international humanitarian law vigilance obligation in the context of activities related to arms transfer (**Recommendation 45**).

## 3.2. Removing obstacles to the judicial review of arms transfers

64. Arms transfers are increasingly subject to litigation at both European and global levels,<sup>322</sup> driven by civil society actors (non-governmental organisations, investigative journalists, researchers, trade unions...) taking action to support respect for international law, accountability of the public and private actors involved, and victim's access to justice. Whilst landmark cases illustrate the potential role the judge may play in this area, many obstacles still prevent judicial review of arms transfers, or confine him to a limited role: lack of access to information on arms transfer licences and on actual exports; restrictions on standing; limited jurisdiction to review decisions authorising arms transfers; judicial reluctance to carry out in-depth reviews of such decisions; complex nature of corporate structures and arms trade value chains; etc.<sup>323</sup> France is no exception. Nevertheless, these obstacles ought to be lifted to unlock judicial review of administrative decisions and to realise the potential of criminal and civil liability litigation as a lever for accountability and access to remedy.

### Administrative litigation

65. The seriousness of violations of international humanitarian law and human rights committed in the context of the conflict in Yemen, and more recently, in Gaza, together with the possible involvement of arms of French origin, have led non-governmental organisations to bring proceedings before the administrative courts. These proceedings pursue two main objectives. They seek the suspension of French arms exports to States that are parties to these conflicts and to have their legality reviewed by the courts, as well as to require the court to order the administration to disclose information relating to

---

<sup>321</sup>. In this regard, see the recommendation by the European Parliament, notably in the following resolution, [European Parliament Resolution of 17 September 2020 on Arms export: implementation of Common Position 2008/944/CFSP \(2020/2003\(INI\)\)](#), §55.

<sup>322</sup>. Several communications have been submitted to the International Criminal Court (ICC) (under Art. 15 of the Rome Statute) to request the opening of preliminary examinations into the potential individual criminal liability of corporate executives and/or political officials for complicity in international crimes arising from the supply of arms, such as in 2019 in relation to war crimes committed in Yemen (ECCHR et al., '[Case report. Made in Europe, bombed in Yemen: How the ICC could tackle the responsibility of arms exporters and government officials](#)'), or in 2024 and 2025 concerning the liability of Australian and French political officials for crimes committed by the Israeli armed forces in the Gaza Strip and Occupied West Bank respectively (*Blast*, '[Genocide in Gaza: 114 lawyers versus France](#)' [in French], 28 July 2025; <https://armstradelitigationmonitor.org/case/communication-to-the-office-of-the-prosecutor-of-the-icc-2/>). Also see the joint initiative Arms Trade Litigation Monitor (ATLM), launched in 2023 by Saferworld, the Emergent Justice Collective and the International Commission of Jurists, which catalogues litigation brought against international arms transfers, available at <https://armstradelitigationmonitor.org/>.

<sup>323</sup>. In particular, see the OHCHR report, 'Impacts of arms transfers on human rights', 9 January 2025, *op. cit.*

these exports.<sup>324</sup> In addition, a State liability claim for failure to act was lodged in September 2025, on account of alleged breaches of the prevention obligations stemming from the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, notably in connection with the continued delivery of arms to Israel.<sup>325</sup> This unprecedented action echoes, *mutatis mutandis*, the litigation brought against the French State for climate inaction, known as the ‘Case of the Century’ (*Affaire du Siècle*).<sup>326</sup> To date, all these proceedings have either failed (where final judgments have been handed down) or remain pending. They illustrate the obstacles encountered in this area.

### *The obstacle of lack of jurisdiction*

66. Applications seeking to suspend export licences for war materials and related materials (LEMG) granted by France to other States, on the grounds that they risk being used to commit or facilitate international crimes, currently face a major obstacle: the jurisdictional immunity from which, according to the Council of State (CE), decisions granting export licences benefit. The Council of State takes the view that such decisions fall within the category of sovereign acts known as *actes de gouvernement*, which are in principle beyond the reach of administrative judicial review. In a judgment of 27 January 2023 concerning exports to the Saudi-led coalition involved in Yemen, it held that the implicit refusal to suspend all the licences was ‘*not severable from the conduct of France’s international relations*’.<sup>327</sup> The case in question<sup>328</sup> related to the export of arms to States which were parties to the conflict in Yemen that were involved in serious and widely documented violations of international human rights law and international humanitarian law,<sup>329</sup> giving rise to questions as to the legality of the exports carried out.<sup>330</sup> It is regrettable that the highest administrative court in France did not consider that the administrative judge (*le juge administratif*) could address those questions, taking the view that an application for the suspension of an LEMG is not amenable to judicial review where the application

<sup>324</sup>. The two objectives may be pursued in tandem: the application for judicial review on grounds of excess of power (*recours pour excès de pouvoir*), brought to secure the suspension of export licences for war material (LEMG) to countries involved in the war in Yemen is accompanied by an interlocutory injunction (*demande d’injonction avant dire droit*) seeking, pending a substantive ruling, the declassification and production before the court of these licences, the deliberations and opinions of the CIEEMG and of ‘*all information that could potentially enlighten the court and the parties as to the compliance with France’s international commitments of the licences issued*’ ([CE, 27 January 2023, ACAT and ASER, No. 436098](#) [in French], free translation).

<sup>325</sup>. *Sud Ouest*/AFP, ‘[War in Gaza: an organisation of jurists refers a case to the French courts for the “failure” of the State “to prevent genocide”](#)’ [in French], 2 September 2025. This action, brought by the association of jurists for the respect of international law (JURDI) before the Paris Administrative Tribunal (TA), relies in particular on the plausible risk of genocide in Gaza acknowledged by the ICC and on the obligation of third States not to provide aid or assistance to the State or entities that may be committing genocide. In addition, the association lodged a failure-to-act claim under Art. 265 of the TFEU before the Court of Justice of the European Union against the European Commission and the Council on the grounds of inaction in the face of crimes committed by Israel in Gaza (*EU Observer*, ‘[Lawyers file case against EU Commission and Council for “failure to act” on Gaza genocide](#)’, 15 July 2025; JURDI, ‘[The European Union formally put on notice for “failure to comply with its obligation to prevent genocide” in Gaza](#)’ [in French], 13 May 2025).

<sup>326</sup>. In this respect, see CNCDH, ‘[Opinion “climate emergency and human rights”](#)’, Plenary Assembly of 27 May 2021, *JORF* No. 0130 of 6 June 2021, text No. 46.

<sup>327</sup>. [CE, 27 January 2023, ACAT and ASER, No. 436098](#) [in French], §4 (free translation).

<sup>328</sup>. The case was brought by the organisation *Action sécurité éthique républicaines* (ASER), subsequently joined by Action by Christians for the abolition of torture (ACAT), and then four further organisations – Action Against Hunger, Doctors of the World, Salam for Yemen and Sherpa.

<sup>329</sup>. See the reports of the Group of Eminent International and Regional Experts (GEE) on Yemen, established in 2017 by the United Nations Human Rights Council. In these reports, the GEE called upon third States, including France, to refrain from providing arms which could be used in the conflict, due to the situation of known violations, and pointed out that this type of support may amount to aiding and assisting internationally wrongful acts (see, for example, United Nations Human Rights Council, GEE Report, *Situation of human rights in Yemen, including violations and abuses since September 2014*, 28 September 2020, [A/HRC/45/6](#), §102. Also see the report of 13 September 2021, [A/HRC/48/20](#), §§ 82 and 91 b).

<sup>330</sup>. GEE report of 9 August 2019, [A/HRC/42/17](#), §92. Other States have chosen to suspend their arms exports on this ground.

is general in scope.<sup>331</sup> This qualification was upheld both in respect of the application targeting all licences to countries engaged in the coalition led by Saudi Arabia (by way of an application of judicial review on grounds of excess of power) and in respect of the application relating to 22 export licences covering two specific categories of war material destined for Israel (by way of an interim application). The Council of State confirmed its case law in a judgment of 1 May 2024.<sup>332</sup> Two further interim applications lodged in April 2024 (one general in scope<sup>333</sup> and the other targeting a ML3-category licence<sup>334</sup>) were dismissed on the same grounds. These three interim applications form part of a coordinated litigation strategy led by around 10 NGOs and trade unions seeking urgent intervention by an administrative judge in the face of *‘the extreme gravity of crimes committed by the Israeli Government against the Palestinian people in the Gaza Strip’*.<sup>335</sup> This action reflects the expectations placed upon the administrative judge to fully fulfil its role as guarantor of legality and protection of fundamental rights, including in the sensitive area of arms exports, by ordering, where appropriate, the provisional suspension of LEMG. Yet the current jurisprudence, which elevates jurisdictional immunity to an immovable principle, forecloses any examination of the legality of such decisions.<sup>336</sup>

67. However, the doctrine of acts of government (*actes de gouvernement*) has praetorian origins and its scope has already evolved.<sup>337</sup> Nothing prevents the administrative judge from developing its case law. In the aforementioned ASER case, whilst the appellate court held that it lacked jurisdiction to examine the application,<sup>338</sup> it nonetheless stated that *‘the possibility of judicial review for ultra vires of decisions akin to those in question is not wholly inconceivable’*, at the same time envisaging this *‘only in the event*

<sup>331</sup>. In this respect, see MULIER Thibaud, [‘France’s Arms Exports’](#) [in French], *Le retour de la guerre* [‘The Return of War’ Dossier], *Confluence des droits, La revue*, 12 | 2023, which deduces from it that *‘apart from an application brought by an export company, which alone can formulate an application of individual in scope in respect of an LEMG, any request made by a third party results in an administrative decision that is not severable from the conduct of France’s foreign relations’*. The Council of State would thus have *‘merely opened the courtroom door of administrative jurisdiction to the businesses concerned’* (free translation).

<sup>332</sup>. [CE, judge sitting in urgent proceedings, 1 May 2024, Amnesty International France, No. 493898](#) [in French]. This *référé-liberté* (urgent application for the protection of fundamental freedoms) was brought by Amnesty International, with a voluntary intervention by LDH at first instance ([Administrative Tribunal of Paris, 13 April 2024, No. 2408368](#) [in French]).

<sup>333</sup>. This *référé-liberté* requesting the suspension of all LEMG and dual-use goods licences destined for Israel was filed by a group of organisations and trade unions (ACAT France, [‘Multiple legal action to demand suspension of arms shipments to Israel’](#) [in French] 12 April 2024).

<sup>334</sup>. This *référé-suspension targeting* a single LEMG falling within the category ML3 (ammunition and ammunition components) destined for Israel was brought by ASER (with a voluntary intervention by ACAT France and Stop Fuelling War). This case, known as the ‘Eurolinks’ case, which also involves criminal proceedings, is based on disclosures by Disclose and Marsactu about ammunition components delivered to an Israeli arms company that may be incorporated into weapons used by the Israeli army against civilians in Gaza. According to MINARM, these components were reportedly destined solely for re-export and the Israeli army was not authorised to use them (see the [application and written submissions](#) [in French]; Disclose, [‘War in Gaza: France has secretly supplied machine-gun equipment to Israel’](#) [in French], 25 March 2024).

<sup>335</sup>. Amnesty International France, [‘Arms sales to Israel: why we are going to court in France’](#) [in French], 11 April 2024 (free translation). Also see: Amnesty International France, [“An act of government”, or why French justice is blinkered on the issue of arms sales’](#) [in French], 18 June 2024.

<sup>336</sup>. In the above-mentioned ACAT and ASER case, the petitioning organisations requested the referral to the CJUE by the Council of State of two preliminary questions, including one related to the right to an effective remedy guaranteed by Art. 47 of the Charter of Fundamental Rights. This request was rejected (no grounds given).

<sup>337</sup>. Since the abandonment of the criterion based on political motive, acts of government essentially relate to two areas: the conduct of France’s diplomatic relations and the relations between constitutional public powers. The category of acts of government has also been narrowed by the doctrine of ‘severable acts’ (*actes détachables*) (that is, acts severable from the conduct of France’s international relations), which enables the judge to exercise judicial review, for example in respect with extradition decrees.

<sup>338</sup>. A solution contrary to that retained by the tribunal of first instance, upheld by the Council of State. The tribunal of first instance had acknowledged jurisdiction, taking the view that the decision was severable from the conduct of France’s diplomatic relations: Administrative Tribunal (TA) Paris, 8 July 2019, [ASER, No. 807203](#) [in French] (free translation). However, the tribunal did not examine the merits of the decision, holding that the treaty provisions relied upon in support of the application were not directly effective (*effet direct*).

of a direct and manifest breach of a peremptory and unconditional norm'.<sup>339</sup> More recently, in a case concerning the refusal to repatriate French nationals held in north-east Syria, the administrative judge developed its case law by acknowledging the court's jurisdiction in circumstances of an exceptional nature,<sup>340</sup> thereby drawing the consequences of a judgment of the European Court of Human Rights (ECHR).<sup>341</sup> The CNCDH reiterates its own position that the jurisdictional immunity enjoyed by acts of government should no longer apply *where a fundamental right of constitutional or conventional status is at stake*.<sup>342</sup> Such immunity amounts to an infringement the right to an effective remedy when the decision in question challenges human rights; *'the difficulties faced by the national authorities in the international arena should not justify an a priori decision of the domestic court to decline jurisdiction, but rather should be taken into account when assessing the legality of their actions'*.<sup>343</sup> Expressed in the context of the refusal of repatriation requests, this position of the CNCDH applies equally for the Prime Minister's refusals to suspend arms exports. The CNCDH accordingly calls upon the administrative judge to set aside the blanket jurisdictional immunity which acts of government enjoy, including decisions relating to the export of war materials and related materials, when fundamental rights are at stake, particularly where there is information pointing to serious violations of human rights and/or international humanitarian law (**Recommendation 46**).

68. Comparative law confirms the isolation of the French position.<sup>344</sup> The Belgian Council of State, for example, suspended arms exports to Saudi Arabia on several occasions between 2018 and 2021, for inadequacy of the statement of reasons in light of the risks that the arms would be used to commit serious violations of international humanitarian law in Yemen, notably because the Advisory Committee on Arms Export Licences had failed to assess the end-user's past practices in that regard.<sup>345</sup> In January 2025, it also suspended three of the nine contested licences for exports to the United Arab Emirates, which are implicated in the conflict in Yemen and accused of supporting Sudanese rebel

<sup>339</sup>. [Paris Administrative Appeal Court \(CAA\), judgment, 26 September 2019, ASER, No. 19PA02929](#) [in French], §3 (free translation). See also: CAA Paris, judgment, 26 September 2019, ACAT, No. 19PA02930.

<sup>340</sup>. CAA Paris, [Refusal to repatriate French nationals held in north-east Syria: the administrative courts accept jurisdiction in exceptional circumstances](#) [in French], 27 February 2025. Without calling into question the blanket jurisdictional immunity which acts of government enjoy, the court ruled that it was its role to review the decision of the State authorities refusing a repatriation request by a French national held abroad *'where the exceptional circumstances [envisaged by the ECHR judgment] are satisfied'*. Where that is the case, the court *'reviews whether [that decision] was taken by an authority competent to this end, and (...) whether there existed legitimate and reasonable grounds, free from arbitrariness, justifying it, whether those grounds are stated in the decision or, failing that, communicated to the applicant, and whether the decision is not tainted by a misuse of power'* (see the only decision of the four handed down on the same day in which the court held that those exceptional circumstances were satisfied, whilst nevertheless dismissing the appeal on the merits: [CAA Paris, 27 February 2025, No. 23PA04014](#) [in French], §6). See also, Paris Administrative Court, ['Repatriation of French children held in Syria: the tribunal requests that the Minister re-examine the applications'](#) [in French], 13 March 2025.

<sup>341</sup>. ECHR, Grand Chamber, judgment of 14 September 2022, [Case of H.F. and others v. France](#), applications Nos. 24384/19 and 44234/20.

<sup>342</sup>. CNCDH, [Opinion on the French under-age nationals detained in Syrian camps](#), Plenary Assembly of 24 September 2019, JORF No. 0237 of 11 October 2019, text No. 78, p. 9. Also see CNCDH, [Urgent opinion on the repatriation of French minors held in camps in north-east Syria](#) [in French], Plenary Assembly of 16 December 2021, JORF No. 0006 of 8 January 2022, text No. 77.

<sup>343</sup>. See the third-party intervention submitted by the CNCDH in the aforementioned [Case of H.F. and others v. France](#), (§234).

<sup>344</sup>. The exercise of judicial review by foreign courts in the light of the criteria of the ATT and the Common Position is facilitated by their incorporation into the domestic law of the jurisdictions concerned. This lends particular importance to the amendments to the Defence Code recommended by the CNCDH in this Opinion.

<sup>345</sup>. [Belgian Council of State, 29 June 2018, Coordination Nationale d'Action pour la Paix et la Démocratie and Ligue des Droits de l'Homme v. Walloon Region, No. 242.023](#) [in French] (see here the series of judgments handed down the same day: [www.raadvst-consetat.be/?page=news&lang=fr&newsitem=489](#)). In the same vein, see: [Belgian Council of State, 9 March 2020, Ligue des droits humains, Coordination nationale d'action pour la paix et la démocratie and Forum Voor Vredesactie v. Walloon Region, No. 247.259](#) [in French]; [Belgian Council of State, 5 March 2021, Ligue des droits humains, Coordination nationale d'action pour la paix et la démocratie and Forum Voor Vredesactie v. Walloon Region, No. 249.991](#) [in French]. However, when the challenged acts are accompanied by a format statement of reasons addressing the various criteria set out by the applicable decree and there is no indication that they are tainted by a manifest error of assessment, the Council of State dismisses the application (Belgian Council of State, 7 August 2020, Nos. 248.128 and [248.129](#)).

factions. The Belgian Council of State held that the reasoning of the Advisory Committee did not make it possible ‘to establish that a careful analysis of the export licence applications had been carried out by reference not only to information relating to the recipient State but also to the nature of the technology or equipment in question’.<sup>346</sup> The suspension of those licences was pronounced in the light of to the criteria of Common Position 2008/944/CSFP incorporated into the domestic (regional) legal order by decree. The Belgian judge also examines decisions relating to the transit of military equipment through Belgium. It recently directed the Flemish Government not only to block a specific container of military equipment, but also to prohibit, subject to a periodic penalty payment, any further transit of military equipment to Israel.<sup>347</sup> In the United Kingdom, the courts have also ruled on arms export licences on several occasions. In 2019, the Court of Appeal directed the British Government to reconsider its decisions on export licences for Saudi Arabia, in connection with the conflict in Yemen.<sup>348</sup> In the Netherlands, the Supreme Court (*Hoge Raad*) recently directed the Dutch Government to reassess the export licence for F-53 combat aircraft components destined for Israel, taking account of the criterion relating to the clear risk of serious violations of international humanitarian law.<sup>349</sup> These examples demonstrate that judicial review, even if limited in scope, is both possible and practised elsewhere in Europe. The continued application by the French administrative judge of jurisdictional immunity to arms export decisions illustrates France’s singular position and deprives applicants of an effective remedy.

69. Besides the desired developments in case law, the CNCDH notes again that French statute law has not kept pace with developments in some other States, such as Spain,<sup>350</sup> which have enshrined a right of recourse against decisions akin to acts of government, where these call into question the fundamental rights of those subject to the jurisdiction. A Private Member’s bill (*proposition de loi*) was tabled to that effect on 21 January 2020 (in the context of challenges relating to refusals to repatriate French children

<sup>346</sup>. [Belgian Council of State, 10 January 2025, \*Ligue des droits humains, Coordination nationale d’action pour la paix et la démocratie and Forum Voor Vredesactie v. Walloon Region, No. 261.969\*](#) [in French] (free translation). See in this regard: HOFMANN Pauline, ‘[The Council of State suspends three licences for exports to the Emirates](#)’ [in French], *Le Soir*, 10 January 2025.

<sup>347</sup>. The Brussels tribunal of first instance held that Flanders was systematically failing to comply with its obligations under arms legislation and international treaties (11.11.11, ‘[Belgian court bans further transit of all military equipment to Israel in landmark ruling](#)’, 17 July 2025).

<sup>348</sup>. [United Kingdom Court of Appeal, 20 June 2019, \*Campaign Against Arms Trade v. Secretary of State for International Trade\*](#). The Court did not review those decisions on the merits, but found a failure to take into account the criteria set by UK legislation (notably mirroring those of the Common Position), namely the criterion relating to the risk of a serious violation of IHL. A year later, having concluded that no such risk existed, the British Government granted new licences for exports to that country – a decision which the High Court declined to quash, finding that the Secretary of State had not acted irrationally (<https://armstradelitigationmonitor.org/overview/united-kingdom-yemen/>). Also see the decision of 30 June 2025, in which the High Court of Justice held that it was not an issue open to the court to rule whether the United Kingdom should withdraw from specific multilateral defence collaboration (relating to F-35 combat aircraft components) ([High Court of Justice, 30 June 2025, \*AL-Haq v. Secretary of State for Business and Trade\*](#), §207).

<sup>349</sup>. *Hoge Raad der Nederlanden, Supreme Court: Minister must perform reassessment of licence to export F-35 parts to Israel again*, 3 October 2025. The Supreme Court reversed the Appeal Court judgment, holding in particular that it was not for it to carry out the risk assessment. The court also held that neither the ATT nor the Common Position require the State to reassess the LEMG upon a change of circumstances – contrary to the view of the Court of Appeal and of the Procurator General (independent and authoritative legal advisor to the Supreme Court), who had considered that failure to reassess would undermine the object and purpose of these instruments and contravene Article 1 common to the Geneva Conventions. The Supreme Court nevertheless recalled that if, upon reassessment, the Government determines that there is a clear risk that the F-35 components would be used to commit serious violations of IHL, it is under the obligation to suspend or revoke the licence, without being able to invoke other grounds to grant the licence (PIJENBURG Annick, TJEPEKEMA Michiel and MEULDERS Casper, ‘[Dutch Supreme Court Orders Executive Branch to Reassess Export of F-35 Parts to Israel in Light of International Obligations](#)’, 8 October 2025). See further the ruling by the Court of Appeal of The Hague of 6 November 2025, which dismisses the applicant organisations’ requests to suspend or withdraw export the authorisations for military equipment to Israel, whilst acknowledging that there exists a clear risk of genocide in the Gaza Strip (SOMO, ‘[Dutch court: Serious risk that Israel is committing genocide in Gaza](#)’, 6 November 2025).

<sup>350</sup>. Spain, [Law No. 29/1998 of 13 July 1998 on contentious administrative jurisdiction](#) [in Spanish], Art. 2: the administrative courts have jurisdiction over matters concerning ‘the judicial protection of fundamental rights (...), in relation to acts of government (...), whatever the nature of such acts’ (free translation).

held in Syria)<sup>351</sup>, without having been taken forward. The legislature could draw inspiration from it to amend the Code of Administrative Justice so as to confer jurisdiction on the administrative courts to hear applications directed against all acts of government connected with the conduct of diplomatic or international relations where fundamental rights guaranteed by the French Constitution, the (European) Convention for the Protection of Human Rights and Fundamental Freedoms, as well as treaties or international conventions and agreements ratified by France are at stake (**Recommendation 47**).<sup>352</sup>

### *The direct effect of the ATT and the Common Position*

70. Even assuming that the administrative judge acknowledges its jurisdiction to rule on challenges to export licences for war materials or related materials, applicants may face a second obstacle: the lack of direct effect of the international commitments invoked in support of such challenges. Indeed, the Paris Administrative Tribunal has held that the provisions of the ATT and Common Position 2008/944/CFSP ‘are exclusively intended to govern relations between States and confer no rights upon which private individuals may directly rely’.<sup>353</sup> With this interpretation, the judge rules out any review of a licence’s compatibility with these international instruments, despite these expressly placing human rights at the heart of their provisions. ‘Reducing human suffering’ is indeed among the stated purposes of the ATT, whose adoption the CNCDH supported, particularly on the grounds that it seeks to ‘contribute to ending violations of human rights and international humanitarian law by directly addressing the causes and means of such violations’.<sup>354</sup> Any natural or legal person with standing to bring proceedings should therefore be able to rely meaningfully on Articles 6 and 7 of the ATT in support of their challenge, as well as on the articles of Common Position 2008/944/CFSP which pursue the same objectives.<sup>355</sup> In any event, the CNCDH reiterates that the Defence Code must be interpreted consistently with these instruments and that it should be amended<sup>356</sup> to ensure that international law is more effectively integrated into the domestic legal order.

### *The information access deficit: a structural barrier to legal remedies*

71. Litigation related to arms exports, in France and in other States<sup>357</sup>, illustrates a third major obstacle: the difficulty faced by claimants in obtaining the information necessary to substantiate their claims<sup>358</sup> and to target relevant licences. In France, the gaps in the proactive publication of information on arms

<sup>351</sup>. National Assembly, [Bill No. 2604 establishing a right of judicial review in respect of acts of government in matters relating to the protection of fundamental rights](#) [in French], tabled on 21 January 2020.

<sup>352</sup>. Such an amendment could be actioned by the insertion of a new Article L. 311-5-1, if jurisdiction were to be vested in the Council of State at first and final instance (as proposed by the authors of the bill) or by the addition of a second paragraph to Art. 311-1, if jurisdiction at first instance were to be assigned to the administrative tribunal.

<sup>353</sup>. [Paris Administrative Tribunal, 8 July 2019, ASER, No 1807203](#) [in French], §8 (free translation). The tribunal concluded that these provisions are ‘devoid of direct effect in domestic law [and] cannot therefore be usefully invoked to support of a challenge to the contested decision, whether directly or in support of the ground alleging breach of Article L. 2335-4 of the Defence Code’.

<sup>354</sup>. CNCDH, *Opinion on the draft framework Convention on international arms transfers*, 2005, *op. cit.*, p. 1. Furthermore, the ATT simply reinforces the pre-existing obligations stemming from international human rights law and international humanitarian law.

<sup>355</sup>. See in this regard: MULIER Thibaud, ‘Le tribunal administratif de Paris donne d’une main pour reprendre de l’autre’ [‘The Paris Administrative Court gives with one Hand and takes with the other’], *AJDA*, No. 37, 2019, pp. 2187-2191; LEFEUVE Justine and REZENDE Fernanda, ‘[The Arms Trade Treaty. Interpretation and direct effect of Articles 6 and 7](#)’ [in French], 2020; DESPREZ Victorine and TRUC Alexandre, ‘[Arms export licence litigation in France. Study of the invocability of the CSFP Common Position and of article 47 of the Charter of Fundamental Rights](#)’ [in French], June 2021.

<sup>356</sup>. See Recommendations 2 and 3 of this Opinion.

<sup>357</sup>. In Spain, for instance, restrictions on access to administrative documents on grounds of national security and defence have, to date, prevented judicial scrutiny, notwithstanding the abolition of jurisdictional immunity (see the [decision of the Supreme Court of 9 February 2023](#) [in Spanish] and related information available at <https://armstradelitigationmonitor.org/overview/spain-yemen/>). The case has been referred to the ECHR).

<sup>358</sup>. On the consequences of the lack of access to information both for claimants and for the exercise of effective judicial review, see: 2024 OHCHR report, *op. cit.*, §31; BRYK Linde and SCHLIEMANN Christian, ‘[Arms Trade and Corporate Responsibility \(...\)](#)’, 2019, *op. cit.*

exports have not, to date, been remedied by the possibility of requesting, on an *ad hoc* basis, that the relevant documents be disclosed by the (administrative) authorities.<sup>359</sup> Requests addressed to the General Directorate for Customs and Indirect Taxation (DGDDI) – concerning exports to Saudi Arabia, the United Arab Emirates and Egypt or certain exports to Israel –<sup>360</sup> have gone unanswered,<sup>361</sup> resulting in implied refusals.<sup>362</sup> Seized of one such dispute, the Montreuil Administrative Court held, on 19 July 2024, that disclosure of the requested documents would compromise foreign policy, national defence secrecy and trade secrets, and rejected the invocation of Article 10 of the European Convention on Human Rights on the right to receive information. According to the Tribunal, disclosure of the requested documents would enable the nature and volume of the equipment and the services provided to these third countries by the companies concerned to be determined, and would ‘*by its nature undermine the conduct of France’s foreign policy and even national defence secrecy as well as trade secrets, protected by Article L. 311-5 of the Code governing relations between the public and the administration*’.<sup>363</sup> While acknowledging that the applicant organisations ‘*contribute to public debate by producing information relating to human rights violations that may result from the use of weapons of war*’, the tribunal considered that the restrictions imposed by law constituted a necessary and proportionate interference. The applicant organisations, who expressed regret, in particular, that the judge had not considered the possibility of disclosing redacted versions of the documents with sensitive information removed, or of referring the matter to the National Defence Secrecy Commission,<sup>364</sup> lodged an ‘*appel*’ on points of law (*pourvoi en cassation*) with the Court of cassation.<sup>365</sup>

72. The CNCDH observes that in other Member States of the Council of Europe, some judges sometimes order the disclosure of information relating to arms exports, on a case-by-case basis. The Belgian Council of State, for instance, draws attention to the fact that confidentiality may be invoked, but that it must ‘*remain the exception and cannot, in the context of judicial proceedings, have the effect of preventing the exercise of the rights of the defence and adversarial debate between the parties*’.<sup>366</sup> The European Court of Human Rights may yet be called upon to rule on the compatibility of restrictions on access to information in the context of arms exports – whether grounded in national defence secrecy, trade

<sup>359</sup>. See Art. L. 311-1 *et seq.* of the Code governing relations between the public and the administration.

<sup>360</sup>. Amnesty International referred to the Commission for Access to Administrative Documents (CADA) the implied refusal of its request to access information on licences relating to exports to Israel concerning ML5 and ML15 categories (Amnesty International France, ‘[Arms sales to Israel: why we are going to court in France](#)’ [in French], 11 April 2024).

<sup>361</sup>. Yet the OHCHR recommends that information request procedures be not only accessible to the public and that related decisions be taken promptly, but also that refusals be sufficiently reasoned (in addition to being subject to appeal before a higher authority – which is the case in France): 2024 OHCHR report, *op. cit.*, §23 and §42 b).

<sup>362</sup>. Such implied refusals may be challenged before the administrative judge, subject to prior referral of the matter to the CADA.

<sup>363</sup>. [Montreuil Administrative Tribunal, 19 July 2024, ECCHR and others, No. 2209299](#). (free translation). The judge also declined to refer a priority preliminary ruling on constitutionality (*question prioritaire de constitutionnalité*, QPC) to the Constitutional Council concerning the compatibility of the legal provisions protecting the aforementioned secrets with Articles 15 and 16 of the Declaration of the Rights of Man and of the Citizen.

<sup>364</sup>. This independent administrative authority issues (advisory) opinions on the declassification and disclosure of information covered by national defence secrecy (see Art. L. 2312-1 *et seq.* of the Defence Code).

<sup>365</sup>. [Amnesty International, ECCHR, Disclose, ‘French arms sales to the military coalition fighting in Yemen: administrative courts block all access to information’](#) [in French], 23 July 2024.

<sup>366</sup>. See notably : [Belgian Council of State, 29 June 2018, Coördination Nationale d’Action pour la Paix et la Démocratie and Ligue des Droits de l’Homme v. Walloon Region, No. 242.023](#) [in French] (free translation). Drawing on the case-law of the Belgian Constitutional Court, the Council of State considers that general and absolute exceptions to the right to administrative transparency, which underpins the effectiveness of the right to an effective remedy, applying to all certificates and licences as well as to all advisory committee opinions, are disproportionate to the aim pursued. Whilst confidentiality can be invoked in the instant case, it must not ‘*by its nature prevent effective judicial review of legality (...) by the Council of State*’ and cannot go ‘*so far as to prevent the applicant parties from accurately identifying the nature of the equipment covered by each licence*’. The lessons learned from this judgment (and from others handed down the same day) have been subsequently confirmed, including in a recent decision ([Belgian Council of State, 10 January 2025, Ligue des droits humains, Coördination nationale d’action pour la paix et la démocratie and Forum Voor Vredesactie v. Walloon Region, No. 261.969](#) [in French] (free translation), which upheld the confidentiality of the documents in question).

secrets, or the protection of foreign policy information... – with the European Convention.<sup>367</sup> The United Nations High Commissioner for Human Rights has, moreover, in a 2024 report, identified the lack of transparency in military equipment exports as a structural obstacle to access to effective remedies.<sup>368</sup> Yet, disclosure of information about potential violations of human rights and international humanitarian law arising from arms transfers is a matter of general interest to the public and one that concerns the international community as a whole.<sup>369</sup> It is in this spirit that the OHCHR advocates a narrow interpretation of the restrictions on the right to access information, including those justified on the basis of national security,<sup>370</sup> pointing out that, in practice, challenging an arms export licence requires knowing of its existence, being able to identify it with precision, and having access to precise information about the material concerned, its actual export transport, the end-user and the intended end-use, including any end-use conditions and commitments given by the end-user.<sup>371</sup> Such information ought to be published proactively<sup>372</sup> or, failing that, made available upon request.

## Criminal and civil litigation

73. Arms sector businesses may incur criminal liability for breaches of applicable legal or regulatory obligations. This is the case if they operate without state authorisation (notably by engaging in the illicit trafficking of arms) or if they export arms, ammunition, parts or components without a licence<sup>373</sup> to embargoed countries or individuals subject to sanctions.<sup>374</sup> But their criminal liability may also come into question even if they hold a state-issued authorisation for manufacture, trade, intermediation, exploitation and use (AFCI) and/or a licence for the operation in question. Such authorisations do not exempt businesses from their potential liability on other grounds. Breaches of human rights and international humanitarian law may thus, where they constitute an offence, give rise to the criminal liability of legal persons<sup>375</sup> and natural persons who are perpetrators or accomplices of the same acts.<sup>376</sup> Several lawsuits pursued in France and abroad testify to the use of criminal proceedings to establish liability and, where appropriate, to sanction the perpetrators or accomplices of offences, whether private or public actors.

74. For example, a criminal complaint filed by several organisations as civil parties has been brought against three French defence companies (Dassault Aviation, Thales Group and MBDA France) in the context of the conflict in Yemen.<sup>377</sup> These criminal proceedings come in addition to cases brought in parallel before French administrative courts to secure the suspension of the licences in question or to gain access to relevant administrative documents, as well as a communication submitted separately to

<sup>367</sup>. See the information available at <https://armstradelitigationmonitor.org/overview/spain-yemen/>. In addition, a complaint was brought before the ECtHR concerning the right to life (Art. 2): ECCHR, '[Italian-made bombs in deadly airstrike in Yemen. Strasbourg Court has unprecedented opportunity to deliver justice to survivors](#)', 20 July 2023.

<sup>368</sup>. 2024 OHCHR report, *op. cit.*, §§24 *et seq.*

<sup>369</sup>. *Ibid.* The OHCHR also draws the connection with the right to truth (Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 2005, [A/RES/60/147](#) – so-called 'Joinet Principles', §22 b)).

<sup>370</sup>. The OHCHR notes that in several States, including France, authorities hold excessively broad discretionary powers to reject information requests on the basis of national security (2024 OHCHR report, *op. cit.*, §19).

<sup>371</sup>. 2024 OHCHR report, *op. cit.*, §37 in particular.

<sup>372</sup>. See the recommendations made in this regard by the CNCDH in Part 1.2. of this Opinion.

<sup>373</sup>. Art. L. 2339-2 of the Defence Code.

<sup>374</sup>. On the violation of sanctions, see: CNCDH, '[Opinion on Humanitarian Exemptions \(...\)](#)', 2024, *op. cit.*

<sup>375</sup>. Art. 121-2 of the Criminal Code. For a summary of the conditions for engaging the criminal liability of legal persons and the penalties incurred, see: CNCDH, '[Business and Human Rights \(...\)](#)' [in French], 2023, *op. cit.*, pp. 338 *et seq.*

<sup>376</sup>. Both cases require culpability (a fault) and imputability (the attribution of the fault to a person). The liability of legal persons and that of natural persons may be cumulative.

<sup>377</sup>. Mwatana for Human Rights, ECCHR and Sherpa, supported by Amnesty International France, '[Complaint regarding exports of war materials by French industrial companies in the context of the conflict in Yemen](#)' [in French], September 2022 (see also the information available in English at [www.ecchr.eu/en/case/yemen-arms-exports-france/](http://www.ecchr.eu/en/case/yemen-arms-exports-france/)).

the International Criminal Court.<sup>378</sup> The complainant organisations are seeking the opening of an investigation into complicity (aiding and abetting) war crimes and crimes against humanity for the export of arms to Saudi Arabia and the United Arab Emirates or for providing maintenance services of such arms, as they could be used in strikes against civilians and civilian objects in Yemen, a fact that at least one of the companies concerned publicly refutes.<sup>379</sup> They draw on lessons learned from the *Lafarge* case relating to the activities of a French company during the armed conflict in Syria. In a ruling of 7 September 2021, the Court of cassation held that aiding and abetting crimes against humanity may be established, in respect of both natural and legal persons, even in the absence of any intention to associate with the commission of such crimes or to participate in the conception or execution of the concerted plan (required for the qualification of a crime against humanity). It is sufficient for the accomplice to '[have] *knowledge that the principal perpetrators are committing or about to commit such a crime against humanity and that by his or her aid or assistance he or she facilitates its preparation or commission.*'<sup>380</sup> The fact that the company acts with a view to pursuing a commercial activity is irrelevant.<sup>381</sup> This definition of aiding and abetting crimes against humanity, the gravity of which is underlined by the Court of cassation,<sup>382</sup> could be applied in the context of arms exports in respect of companies that continue to deliver arms or provide maintenance services whilst aware that those arms are being used to commit international crimes.<sup>383</sup>

75. The use of criminal proceedings to shed light on the responsibility of private and/or public actors for complicity in international crimes linked to arms deliveries is nothing new. Several cases illustrate this, such as those connected to the genocide in Rwanda, targeting French political and military officials<sup>384</sup> as well as a French bank,<sup>385</sup> or the case involving a French company that manufactured a

<sup>378</sup>. See above in this regard. The submission of a communication does not mean that an investigation will be opened. Moreover, the liability of legal persons cannot be pursued before the ICC, which has jurisdiction only over individual criminal liability. In addition, the ICC is governed by the principle of complementarity.

<sup>379</sup>. GOLLA Mathilde, '[Complaint against Dassault Aviation, Thales and MBDA accused of war crimes by NGOs](#)' [in French], *Novethic*, 3 June 2022.

<sup>380</sup>. [Cour of cassation \(Cour de cassation\), Criminal Chamber, ruling of 7 September 2021, No. 19-87.367](#), §§66 and 67. For a summary of the contribution of the four rulings handed down on the same day in this case, see the press release of the Court of cassation, '[Judicial investigation \[information judiciaire\] into the activities of a French company during the civil war in Syria](#)' [in French], 7 September 2021. The indictment (*mise en examen*) of Lafarge for aiding and abetting crimes against humanity was upheld by the Court of cassation, confirming the jurisdiction of French courts (the Court of cassation did however struck out that of endangering employees: Court of cassation, '[Press release: Judicial investigation into the activities of a French company during the civil war in Syria](#)' [in French], 16 January 2024).

<sup>381</sup>. In this case, the knowing payment of several million dollars to an organisation with a purely criminal purpose is sufficient to constitute being an accessory after the fact. A judicial investigation (*information judiciaire*) was opened on 8 November 2022 by the crimes against humanity and war crimes unit of the National Anti-Terrorism Prosecutor's Office (PNAT) (see information available at [www.asso-sherpa.org/dassault-aviation-mdba-and-thales-case-in-yemen](http://www.asso-sherpa.org/dassault-aviation-mdba-and-thales-case-in-yemen)). The investigation is ongoing, while that relating to another aspect of the case, concerning the financing of a terrorist undertaking and violation of an embargo, has been closed.

<sup>382</sup>. The Court of cassation recalls that beyond the attack on the individual '*it is humanity that it targets and injures*' and emphasises that adopting a different interpretation of aiding and abetting crimes against humanity would result in many acts of complicity going unpunished, '*whereas it is the multiplication of such acts that makes the crime against humanity possible*' ([Court of cassation, Criminal Chamber, ruling of 7 September 2021, No. 19-87.367](#), §64, §70).

<sup>383</sup>. The concept is used with reference to '*the most serious crimes of concern to the international community*', as referred to in the Rome Statute of the ICC (preamble, recital 4).

<sup>384</sup>. See the complaint lodged in 2015 by Survie against French political and military officials in connection with the delivery of arms to the Rwandan Government in 1994 (Survie, '[France complicit in the genocide of Tutsis in Rwanda](#)' [in French], 27 March 2024).

<sup>385</sup>. In 2017, Sherpa, the *Collectif des parties civiles pour le Rwanda* and *Ibuka France* filed a criminal complaint as civil parties against BNP Paribas for complicity in genocide, crimes against humanity and war crimes for having facilitated the financing of an arms purchase by the Rwandan Government in June 1994, in violation of the embargo imposed by the Security Council. In September 2017, a judicial investigation (*information judiciaire*) was opened before the Paris Tribunal of First Instance (*tribunal de grande instance de Paris*) and an investigative judge of the crimes against humanity unit was appointed to the case. The case is currently under investigation (Sherpa, 'BNP Paribas case in Rwanda', available at [www.asso-sherpa.org/bnp-paribas-case-in-rwanda](http://www.asso-sherpa.org/bnp-paribas-case-in-rwanda)).

missile component exported to Israel which allegedly killed children in the Gaza Strip in 2014.<sup>386</sup> More recently, the possible involvement of French arms sector companies in the commission of international crimes in Ukraine and in Gaza has once again been brought before the criminal courts. A complaint has been filed against the French group TotalEnergies for complicity in war crimes for having continued to operate an oil field in Russia after March 2022, thereby allegedly enabling the production of fuel used by the Russian military air force. The case was dismissed by the National Anti-Terrorism Prosecutor's Office (PNAT) on the grounds that the offence was insufficiently established. This decision was challenged, unsuccessfully, before the Prosecutor General's Office at the Paris Appeal Court. The criminal complaint subsequently lodged by civil parties in March 2023 was thrown out, this time on procedural grounds, namely the lack of interest and standing to bring proceedings on the part of the complainant organisations.<sup>387</sup> In June 2025, a criminal complaint was lodged by civil parties notably against a French company (Eurolinks) and an Israeli company (IMI Systems) for complicity in war crimes, crimes against humanity and genocide, in connection with ammunition components supplied to an Israeli arms company (Elbit), which may be incorporated into weapons used by the Israeli army against civilians in Gaza since October 2023.<sup>388</sup> The information underpinning this complaint – which led dockers at a French port to refuse to load the military components destined for Israel<sup>389</sup> – is contested by the companies concerned and by the French Government.<sup>390</sup>

76. These cases illustrate that an increasing number of legal proceedings targeting French companies (and their executives) for complicity in international crimes committed abroad - arising from the supply or maintenance of arms – are being brought before French courts. These strategic litigation actions aim to guarantee access to justice and remedy for victims and to act as a reminder that compliance with national arms transfer control regimes does not exempt arms companies from their responsibilities. The human rights duty of vigilance incumbent upon companies falling within the scope of the 2017 Law is also likely to be invoked to this end, in the field of civil liability.<sup>391</sup> These are, however, recent proceedings in which no decision on the merits has yet been handed down. Similar litigation abroad remains, moreover, still rare. A 2023 court ruling in Italy is of note. It involved a complaint against the director of

<sup>386</sup>. A complaint was lodged in 2016 by ACAT against Exxelia Technologies for complicity in war crimes and manslaughter in the context of the Israeli operation known as 'Protective Edge'. A judicial investigation was opened in early 2018 and the parents of the victims were heard in 2023, following an initial complaint that had led to a preliminary investigation discontinued by the Paris public prosecutor's office (on the grounds that the offence was insufficiently established). See information on this ongoing case at: CHANCEL Eve, '[Deadly missile in Gaza: a French company accused by survivors and victims' families](#)' [in French], *Le Parisien*, 4 August 2023; AYAD Christophe, '[French justice scrutinises a war crime in Gaza](#)' [in French], *Le Monde*, 5 September 2023 (which highlights the length of the investigations and notes that a partial summary report drawn up by an official of the French Central Office for combating crimes against humanity and hate crimes (OCLCH) in 2022 recalls that '*state authorisations do not exempt the perpetrator from responsibility*' (free translation).)

<sup>387</sup>. The French organisation (Darwin Climax Coalition) and Ukrainian organisation (Razom We Stand) had neither the requisite fixe years of existence nor the appropriate 'corporate' purpose (*objet social*) to initiate legal proceedings in cases of this nature (*La Voix du Nord*, '[The complaint against TotalEnergies for complicity in Russian war crimes in Ukraine ruled inadmissible](#)' [in French], 10 April 2024). They contested this '*very restrictive interpretation of the interest to take legal action [which] prevents the pursuit of investigations into a matter of a major importance*'; the TotalEnergies Group, for its part, saw it as a confirmation that '*these serious accusations were groundless both in law and in fact*' (*L'Orient-Le Jour*/AFP, '[French court dismisses a complaint against TotalEnergies for complicity in Russian war crimes in Ukraine](#)' [in French], 10 April 2024 (free translation)).

<sup>388</sup>. LDH, '[LDH files a complaint against two arms traders and their accomplices for complicity in war crimes and genocide](#)' [in French], 12 June 2025. The complaint also targets any co-perpetrator or accomplice that the judicial investigation may identify.

<sup>389</sup>. See the press release on 5 June 2025 from the CGT trade union for dock workers and port handling staff in the Gulf of Fos, available [in French] at [www.cgtetat.fr/IMG/pdf/2025\\_06\\_05\\_dockers\\_communique\\_05\\_juin\\_2025.pdf](http://www.cgtetat.fr/IMG/pdf/2025_06_05_dockers_communique_05_juin_2025.pdf); *Le Figaro*/AFP, '[Marseille: dockers refuse to load military components destined for Israel](#)' [in French], 4 June 2025.

<sup>390</sup>. MICHEL Anne, '[War in Gaza: French company Eurolinks the subject of a complaint for suspected shipment of arms components to Israel](#)' [in French], *Le Monde*, 12 June 2025 (LDH's complaint seeks the opening of a judicial investigation to examine, where appropriate, the responsibilities of the seller, but also of the French authorities issuing the LEMG).

<sup>391</sup>. Failure to comply with the obligations arising under the duty of vigilance Law renders the party responsible liable under the conditions set out in the general law of civil liability (Art. 1240 and 1241 of the Civil Code) and obliges that party to remedy the harm which would have been avoided by meeting those obligations (Art. L. 225-102-2 of the Commercial Code). See CNCDH, [Business and Human Rights ...](#) [in French], 2023, *op. cit.*, pp. 323 *et seq.*

the arms manufacturer RWM Italia (an Italian subsidiary of the German company Rheinmetall), as well as current and former directors of the Italian Unit for the authorization of armament materials (UAMA), following an air strike allegedly carried out by the Saudi- and United Arab Emirates-led military coalition in 2016 in north-west Yemen, that killed six civilians.<sup>392</sup> But, quite apart from the criticism it prompted regarding the link retained between the subjective element of the offence (i.e. intent) and the requirements governing export licences,<sup>393</sup> it should be noted that the Italian judge did not specifically examine the conduct of the representative of the private company.

77. Furthermore, from the hearings conducted by the CNCDH, it has emerged that several difficulties are encountered in this context. These stem, over and above the length of proceedings and the lack of resources within the judicial system, from the burden of proof and limited access to information. In addition to the restrictions already mentioned on grounds of national security secrecy, trade secrets can also be an obstacle to sharing information necessary, in particular, to establishing the material facts of the offence, characterising the element of intent or demonstrating the causal link between the arms exports (or maintenance) and the alleged crimes. The gathering of evidence is all the more challenging in contexts marked by insecurity and geographical remoteness and/or in which the witnesses and whistleblowers may fear being subject to reprisals.<sup>394</sup> Furthermore, cases involving arms transfers are characterised by their complexity due to the frequently indirect nature of these operations (involving intermediaries, subcontractors and suppliers), which may make it difficult to trace equipment and its components and to identify their end-use. This complexity is increased by the strategic and opaque nature of these transfers, which lie at the heart of geopolitical issues and of considerations relating in particular to national defence and economic interests of States, which play a central role not only as regulators but also as customers and funders.

78. These difficulties echo the CNCDH's broader findings regarding barriers that victims and their representatives continue to face in accessing justice and obtaining remedy for harm suffered from French businesses for human rights violations committed abroad (whether in the course of their own activities or those of their subsidiaries). The CNCDH refers here to the recommendations it put forward in its report 'Business and Human Rights', in particular those relating to the jurisdiction of French courts, including for crimes under the Rome Statute; those aimed at lifting the corporate veil (in order to facilitate the engagement of the criminal liability of a parent company for harm caused by one of its subsidiaries); and those concerning the protection and access to information, so as to make access to remedy a reality.<sup>395</sup>

---

<sup>392</sup>. See the information about this decision taken by the judge for preliminary investigations in Rome, who discontinued the criminal proceedings brought for abuse of power available at [www.business-humanrights.org/fr/derni%C3%A8re-actualit%C3%A9s/italy-indictment-against-manager-of-rheinmetall-subsidiary-rwm-italia-for-contributing-to-potential-war-crimes-in-yemen-dismissed/](http://www.business-humanrights.org/fr/derni%C3%A8re-actualit%C3%A9s/italy-indictment-against-manager-of-rheinmetall-subsidiary-rwm-italia-for-contributing-to-potential-war-crimes-in-yemen-dismissed/). This decision is being challenged before the ECtHR under Article 2 of the European Convention on Human Rights concerning the right to life (<https://armstradelitigationmonitor.org/overview/arms-in-yemen-at-the-european-court-of-human-rights/>).

<sup>393</sup>. The Italian judge ruled that UAMA had infringed at least Articles 6 and 7 of the ATT by granting export licences to this company when it was certainly aware of the possible use of the arms in question against civilians in Yemen. However, the judge considered it was not possible to establish intent of the suspects to procure a pecuniary advantage or an unfair damage, given that they complied with the procedural requirements of the applicable Italian legislation. For a critique of this formalistic reading of decisions on exports, see: ECCHR, Mwatana for Human Rights, Rete Italiana Pace e Disarmo, '[Preliminary legal analysis](#)', 13 March 2023.

<sup>394</sup>. For an example in France, see the open letter signed by more than one hundred organisations, media and journalist bodies concerning the placing under formal investigation (*mise en examen*) of journalist Ariane Lavrilleux in connection with her contribution to articles on a French military operation in Egypt: Disclose, Fonds pour une presse libre, Reporters sans frontières, Sherpa and Syndicat national des journalistes, '[Guaranteeing the protection of journalistic source confidentiality](#)' [in French], 13 January 2025.

<sup>395</sup>. CNCDH, '[Business and Human Rights...](#)' [in French], 2023, *op. cit.*, pp. 340 *et seq.*

79. Judicial review of arms transfers is hamstrung (by the doctrine of acts of government in respect of litigation challenging administrative decisions) or still embryonic (as regards litigation concerning criminal or civil liability). Despite the obstacles encountered, and whilst failing short of constituting genuine oversight mechanisms capable of ensuring and access to remedy, such litigation represents a lever for promoting transparency and driving changes in practice. The CNCDH accordingly recommends that the Government include, in the annual report to Parliament on France's arms exports, information on litigation concerning arms exports and transfers, whether brought against administrative decisions, natural persons or legal persons (**Recommendation 48**). In doing so, France would follow the example of other States.<sup>396</sup>

80. France must also ensure consistency in its commitments across all relevant frameworks, as well as in the strategies underpinning its public policies. This external and internal coherence is an essential element of the implementation of its international obligations in the field of arms transfers. It is therefore welcome that its 2023-2027 humanitarian strategy and its 2025-2030 international strategy for a feminist foreign policy refer respectively to '*matters related to the arms trade*'<sup>397</sup> and to support for a gender-based approach to the ATT.<sup>398</sup> These very broad commitments should, however, be given concrete expression and accompanied by measurable indicators, as recommended by the CNCDH and the High Council for equality between women and men (HCE), in the context of the preparation of the next national action plan on 'Women, Peace, Security'.<sup>399</sup> The CNCDH recommends that France include commitments relating to arms exports and transfers and, in particular, to their impacts on the protection of human rights and respect for international humanitarian law, in all its relevant strategic frameworks (**Recommendation 49**).

81. The CNCDH calls upon the Government, Members of Parliament, judges, businesses and any other actors concerned to implement the recommendations set out in this Opinion so as to contribute collectively to giving full effect to the ATT and, in so doing, to genuinely embed a universal culture of respect for international humanitarian law and international human rights law in the international trade in conventional arms, whilst upholding international peace and security.

---

<sup>396</sup>. See, for example, Canada, [Annual report to Parliament on the administration of the Export and Import Permits Act](#), 2024; United Kingdom, [United Kingdom Strategic Export Controls Annual Report 2019](#), 2020, pp. 24 – 25.

<sup>397</sup>. French Government, [Humanitarian Strategy of France \(2023-2027\)](#), p. 8.

<sup>398</sup>. MEAE, [France's International Strategy for a Feminist Foreign Policy \(2025-2030\)](#), pp. 52 and 54.

<sup>399</sup>. CNCDH and HCE, ["Women, peace and security": rising to a new political ambition and delivering on commitments. Interim evaluation report on France's third national action plan \(2021-2025\) on the implementation of the United Nations Security Council resolutions on "Women, Peace, Security"](#) [in French], submitted to the Government on 10 December 2024.

## Recommendations of the CNCDH

---

### *Improving the integration of international obligations governing arms transfers into domestic law and practice*

#### **Strengthening the national regime for the control of arms transfers and the monitoring of authorised arms transfers**

##### *Controlled arms and activities*

**Recommendation 1:** The CNCDH recommends that France ensures that all activities linked to arms transfers are subject to State control, notably by specifying under which circumstances and on what conditions the activities of transporters and financial actors necessary to carry out such transfers require authorisation (within the meaning of Article L. 2332-1 I of the Defence Code).

##### *Substantive criteria regulating arms transfers*

**Recommendation 2:** The CNCDH recommends that the legislature amend Chapter V of Title III of Book III of the second part of the Defence Code (relating to the import and export of war materials and related materials outside the territory of the EU as well as to transfers of defence-related products within the EU), in order to insert a new introductory article stating that the provisions of said chapter apply with due regard to France's international commitments, including those stemming from the ATT and the amended Common Position 2008/944/CSFP.

**Recommendation 3:** The CNCDH recommends introducing into the regulatory part of the Defence Code provisions which equate to Articles 6 and 7 of the ATT as well as the criteria set by the amended Common Position 2008/944/CSFP.

##### *Ex-post control of authorised arms transfers*

**Recommendation 4:** The CNCDH recommends enhancing the deterrent effect and the credibility of the ex-post control of arms exports by increasing the number of documentary checks and on-site controls along with the sanctions in cases of regulatory non-compliance, as well as by allocating the necessary resources to do so.

**Recommendation 5:** The CNCDH recommends that France strengthen end-use safeguards for war materials and related materials whose export it authorises and their oversight, by ensuring that end-use certificates enable the verification of end-users and declared end-use, including by providing the means to conduct subsequent on-site verification in the country of destination.

**Recommendation 6:** The CNCDH recommends that France carry out (post-shipment) end-use control of war materials and related materials in the country of final destination, including, where appropriate, by conducting physical on-site inspections, to ensure that the exported military equipment remains in the possession of the authorised end-user and is being used in accordance with the authorisation granted.

*Reassessing authorised arms transfers*

**Recommendation 7:** The CNCDH recommends that the legislature amend the Defence Code to provide for a mandatory suspension or revocation of export, import or transfer authorisations where circumstances change to reveal that the war materials and related materials is being used in a way that does not comply with France’s international commitments.

***Improving transparency and guaranteeing access to information on arms transfers***

*France’s annual report under the terms of the ATT*

**Recommendation 8:** The CNCDH recommends that France submit its annual reports to the ATT Secretariat within the deadlines imposed by Article 13 §3 of the Treaty, and continue to systematically make them public, including by incorporating them into the annual reports to Parliament on France’s arms exports.

**Recommendation 9:** The CNCDH recommends that France increase transparency at international level and improve the content of the annual reports it submits to the ATT Secretariat in order to provide a more detailed overview of the arms transfers it has authorised or which have been carried out.

**Recommendation 10:** The CNCDH recommends that France systematically include, in its annual report to the ATT, a link to the annual report to Parliament on France’s arms exports and that it encourages other States Parties to do likewise.

**Recommendation 11:** The CNCDH recommends that France submit to the ATT Secretariat, and publish, an updated version of its initial report containing new measures, including those of a legislative nature, taken to implement the ATT.

*The annual report to Parliament on France’s arms exports*

**Recommendation 12:** The CNCDH recommends that the Government clarify the types of mitigation/remediation measures it may adopt, and in what circumstances, in order to prevent the exports of conventional arms, ammunition, parts and components that could be used to commit or facilitate serious violations of international humanitarian law or international human rights law.

**Recommendation 13:** The CNCDH recommends that the Government provide information on a more systematic basis in the annual reports to Parliament on France’s arms exports and ensure the long-term sustainability of the progress made in terms of transparency.

**Recommendation 14:** The CNCDH recommends that the government demonstrate greater transparency at national level, particularly by improving the content of the annual report to Parliament on France’s arms exports in order to provide a more detailed overview.

**Recommendation 15:** The CNCDH recommends that the Government include, in the annual report to Parliament on France’s arms exports, the high-level directives issued by the SGDSN, excluding elements that legitimately fall within the scope of classified national defence information.

**Recommendation 16:** The CNCDH recommends that the Government publish information on France’s arms transfers more frequently, notably by publishing a quarterly or half-yearly report in addition to the annual report to Parliament, as well as by setting up an online database that provides access to detailed up-to-date statistics.

**Recommendation 17:** The CNCDH recommends that the Government publish more frequently, by any appropriate means, including proactively, recent information on export licences to countries whose human rights and/or international humanitarian law records attract the attention of Members of Parliament, public opinion, and the international community.

### *Strengthening corporate accountability in the arms-sector with regard to human rights and international humanitarian law*

#### **Reaffirming arms sector corporate responsibility to respect human rights and international humanitarian law**

**Recommendation 18:** The CNCDH recommends that France ensure that businesses in the arms sector are duly informed of the implications of the ATT and the (amended) EU Common Position 2008/944/CSFP for them, notably by highlighting the potential value to them of the guides relating to the implementation of Articles 6, 7 and 11 of the ATT, as well as the User's Guide to said Common Position.

**Recommendation 19:** The CNCDH recommends that France reaffirm the standalone responsibility that falls upon arms sector businesses to respect human rights and international humanitarian law, independently of and in addition to decisions related to export authorisation and to the obligations incumbent upon States.

**Recommendation 20:** The CNCDH recommends that France recall that all arms sector businesses should exercise human rights and international humanitarian law due diligence at every stage 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.

**Recommendation 21:** The CNCDH recommends that France remind arms sector companies, that fall within the scope of Law No. 2017-399 of 27 March 2017 on the duty of vigilance and parent companies and instructing undertakings, that they are required to establish, publish and effectively implement a vigilance plan.

**Recommendation 22:** The CNCDH recommends that France impose heightened human rights and international humanitarian law due diligence obligations on businesses operating in situations of armed conflict, particularly those in the arms sector, and ensure that they do not take part in these violations.

**Recommendation 23:** The CNCDH recommends that training and awareness-raising activities organised by the Ministry for the Armed Forces for arms sector businesses foster better knowledge and understanding of the negative impacts that arms exports and transfers can have on respect for human rights and international humanitarian law and clearly set out corporate responsibilities and obligations for adopting concrete due diligence measures in the matter.

**Recommendation 24:** The CNCDH invites the Government to consider how ex-post control of arms export businesses could be mobilised to support the monitoring the implementation of the duty of vigilance Law on due diligence.

**Recommendation 25:** The CNCDH recommends that France support the continuation of discussions and work within the Conference of the States Parties on the role of industry in responsible international transfers of conventional arms, including on the application of human rights and international humanitarian law due diligence in this context, drawing on the relevant guidance of the United Nations High Commissioner for Human Rights, of the special procedures, as well as of the United Nations treaty bodies.

## ***Exercising human rights and international humanitarian law due diligence in the context of arms transfer activities***

**Recommendation 26:** The CNCDH recommends that arms sector businesses exercise human rights and international humanitarian law due diligence in all their activities and value chains, in accordance with the United Nations Guiding Principles and the OECD Guidelines and, where applicable, the duty of vigilance Law.

### *Transparency*

**Recommendation 27:** The CNCDH recommends that arms sector businesses improve their reporting on the – potential and actual – negative impacts of their activities on human rights and international humanitarian law and the mitigation and preventive measures adopted by publishing sufficiently detailed, accessible and clear information.

### *Risk identification and analysis*

**Recommendation 28:** The CNCDH recommends that businesses conduct their own risk assessments regarding human rights and international humanitarian law, in addition to those carried out by export and import control authorities, and that they cover the entire value chain, both upstream and downstream, in order to include their clients' use of the products/services in particular.

### *Measures to mitigate risks and prevent violations*

**Recommendation 29:** The CNCDH recommends that arms sector businesses adopt adequate and proportionate measures to mitigate risks and prevent violations, assess their effectiveness and monitor their implementation, ensuring that they take account of the particularly high risk of violations of human rights and/or international humanitarian law in situations of armed conflict or of other situations of widespread violence.

**Recommendation 30:** The CNCDH recommends that arms export businesses provide training for their employees in charge of export control in human rights and international humanitarian law.

### *Grievance and remediation mechanisms*

**Recommendation 31:** The CNCDH recommends that French arms sector businesses draw on the information gathered through their alert and reporting mechanisms or grievance mechanisms in order to adapt their due diligence measures and practices and adopt adequate remedy measures as required.

**Recommendation 32:** The CNCDH recommends that French arms sector businesses cooperate in good faith in any judicial or non-judicial proceedings in which they may be implicated for alleged violations of human rights and/or international humanitarian law, including by disclosing all relevant information, with the exception of legitimately protected information, and in compliance with the rights of the defence.

## ***Fostering genuine parliamentary and judicial control of arms transfers***

### **Strengthening the necessary parliamentary oversight of arms transfers**

**Recommendation 33:** The CNCDH recommends that the annual report to Parliament on France's arms exports and that on dual-use goods systematically be the subject of a joint hearing by the defence,

foreign affairs and economic affairs committees not only of the National Assembly but also of the Senate.

**Recommendation 34:** The CNCDH recommends that the annual reports to Parliament on France's exports of arms and dual-use goods should be the subject of a debate in open session at the National Assembly and the Senate.

**Recommendation 35:** The CNCDH recommends that the activity report of the Ministerial Ex-post Control Commission is forwarded annually not only to the chairs of the permanent defence committees of the National Assembly and the Senate but also the foreign affairs and economic affairs committees.

**Recommendation 36:** The CNCDH recommends that the legislature extend the composition of the committee for evaluating government policy on exporting warfare equipment and similar, the transfer of defence-related products as well as the export and transfer of dual-use goods, while ensuring that pluralist representation is maintained, and authorise its members to access information protected by national defence secrecy under Article 413-9 of the Criminal Code.

**Recommendation 37:** The CNCDH recommends that that the legislator widen the remit of the parliamentary evaluation committee so that it can effectively exercise its function of controlling government action and evaluating public policy in the matter.

**Recommendation 38:** The CNCDH recommends that the legislator make provision for the parliamentary evaluation committee to produce an annual public report setting out a review of its work, redacted of elements covered national defence secrecy [understood in the sense of Recommendation 41 below], and including observations and recommendations on the Government's annual reports on arms and dual-use goods export policy.

**Recommendation 39:** The CNCDH recommends that the parliamentary evaluation commission meet on a monthly basis and hold regular hearings of individuals involved in arms and dual-use goods export (relevant members of the government and administration), as well as, in particular, representatives of non-governmental organisations which deal with these subjects, industry representatives, trade unions and workers' elected representatives from the sector, and qualified individuals.

**Recommendation 40:** The CNCDH recommends that, in its annual report to Parliament on France's arms exports, the Government provide a more comprehensive overview of the exchanges between the Government and Parliament on the subject, including by annexing the list of oral and written questions submitted by members of the National Assembly and senators in this regard, together with the corresponding answers, and similarly the list of hearings plus any fact-finding missions and commissions of inquiry devoted to it.

**Recommendation 41:** The CNCDH recommends that the Government narrowly interpret the restrictions on the right of access to information relating to arms transfers provided by law and pursuing legitimate objectives, and ensure that it confines itself to those which are strictly necessary and proportionate, so as to guarantee access to information in the public interest and the possibility of public debate.

**Recommendation 42:** The CNCDH recommends that Members of Parliament make full use of the tools at their disposal to scrutinise the Government's policy on arms transfers.

**Recommendation 43:** The CNCDH recommends that members of Parliament organise regular exchanges with their foreign counterparts, particularly within Europe, on their respective arms transfer control practices.

**Recommendation 44:** The CNCDH recommends that members of Parliament increase their involvement in raising awareness of the rules governing arms transfers, particularly the ATT and the Common Position 2008/944/CSFP, and of the risks that these transfers may pose to human rights and international humanitarian law.

**Recommendation 45:** The CNCDH recommends that members of Parliament help improve corporate responsibility in the arms sector, including by questioning companies on how they implement their human rights and international humanitarian law vigilance obligation in the context of activities related to arms transfer.

### ***Removing obstacles to the judicial review of arms transfers***

**Recommendation 46:** The CNCDH recommends that the administrative judge set aside the blanket jurisdictional immunity which acts of government enjoy, including decisions relating to the export of war materials and related materials, when fundamental rights are at stake, particularly where there is information pointing to serious violations of human rights and/or international humanitarian law.

**Recommendation 47:** The CNCDH recommends that the legislature amend the Code of Administrative Justice so as to confer jurisdiction on the administrative courts to hear applications directed against all acts of government connected with the conduct of diplomatic or international relations where fundamental rights guaranteed by the French Constitution, the Convention for the Protection of Human Rights and Fundamental Freedoms, as well as treaties or international conventions and agreements ratified by France are at stake.

**Recommendation 48:** The CNCDH recommends that the Government include, in the annual report to Parliament France's arms exports, information on litigation concerning arms exports and transfers, whether brought against administrative decisions, natural persons or legal persons.

**Recommendation 49:** The CNCDH recommends that France include commitments relating to arms exports and transfers and, in particular, to their impacts on the protection of human rights and respect for international humanitarian law, in all its relevant strategic frameworks.

## Annex 1: List of persons heard

The positions listed below are those held at the time of the hearings conducted by the CNCDH between 2020 and 2025.

### Ministries:

*For the Secretariat-General for National Defence and Security (SGDSN):*

- **Cyril CROZE**, Senior Armaments Engineer (*ingénieur général*), Deputy Director of the AIST [International, Strategic and Technological Affairs] Directorate;
- **Colonel Bruno CUNAT**, Deputy Director for war materials exports, AIST Directorate;
- **Matthieu KUSZA**, Legal adviser, AIST Directorate;
- **Jean-Hugues SIMON-MICHEL**, Director for International, Strategic and Technological Affairs (AIST).

*For the Ministry for Europe and Foreign Affairs:*

- **Mikael GRIFFON**, Deputy Director to ASD/DT Director (Strategic, Security and Disarmament Affairs Directorate);
- **Benjamin WEISZ**, ASD/DT/Expert Control Unit.

*For the Ministry for the Armed Forces:*

- **Etienne PARIS**, Second Class Senior Armaments Engineer (*ingénieur général de 2<sup>de</sup> classe*), Export delegate, Directorate General for International Relations and Strategy (DGRIS);
- **Nicolas ROY**, Legal Adviser, DGRIS;
- **Xavier TRUDEL**, Chief Armaments Engineer (*ingénieur en chef*), Head of the Export Control Department (alternate member of the Ministerial Committee for Ex-Post Controls of War Material Exports (CMCAP), representative of the Directorate for Defence, Foresight and Counter Proliferation).

### Members of Parliament:

- **Sébastien NADOT**, Member of the National Assembly for Haute-Garonne, Chair of the France-Quebec Parliamentary Friendship Group, member of the Association of Parliaments of Francophone Countries (APF);
- **André VALLINI**, Senator for Isère;
- **Jacques MAIRE**, Member of the National Assembly for Hauts-de-Seine, member of the Foreign Affairs Committee, co-rapporteur of the fact-finding mission on arms export control.

### Industry representatives:

- **Jean-Marc DUQUESNE**, Director General (*délégué général*) of GICAT (trade group for the French defence and security manufacturers on land and in the air);
- **Patrice SARTRE**, Compliance Adviser at GICAT.

University academics:

- **Netta GOUSSAC**, Associate Researcher at the Stockholm International Peace Research Institute (SIPRI), Special Counsel for Lexbridge;
- **Thibaud MULIER**, Senior Lecturer in Public Law, Paris Nanterre University.

Humanitarian actors and non-governmental organisations:

- **Maya BREHM**, Legal Adviser, Arms and Conduct of Hostilities Unit, ICRC (Geneva);
- **Cannelle LAVITE**, Legal Adviser to the European Center for Constitutional and Human Rights (ECCHR);
- **Élise LE GALL**, Lawyer at the Paris Bar, Legal Counsel at the International Criminal Court.



Created in 1947 at the instigation of René Cassin, the National Consultative Commission on Human Rights (CNC DH) is the French National Human Rights Institution with level 'A' accreditation from the United Nations.

The CNC DH performs a three-pronged role that involves the following:

- advising public authorities in matters related to human rights and international humanitarian law;
- monitoring the effectiveness of France's commitments in this area;
- raising awareness and educating about human rights.

The CNC DH's independence is enshrined in law. Its functioning is based on the principle of pluralism of ideas.

Unique institution that maintains continuous dialogue between civil society and French

experts in the field of human rights and international humanitarian law, the Commission comprises 64 qualified individuals and representatives of non-governmental organisations and trade-unions.

The CNC DH has been an independent National Rapporteur on the fight against all forms of racism since 1990, on the fight against the trafficking and exploitation of human beings since 2014, on the implementation of the United Nations Guiding Principles on Business and Human Rights since 2017, on the fight against LGBTI hatred and discrimination since 2018 and on the effectiveness of the rights of persons with disabilities since 2020.

The CNC DH is also the French commission on the implementation of international humanitarian law within the meaning of the International Committee of the Red Cross.

[www.cncdh.fr](http://www.cncdh.fr)

