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# ARMING INSTABILITY

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*EU-Israel arms trade and the EU Common Position*

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# ARMING INSTABILITY

## *EU-Israel arms trade and the EU Common Position*

### **Abstract**

At the crossroads between trade and the Common Foreign and Security Policy (CFSP), EU arms exports to Israel is a topic that remains underexplored, despite the current Netanyahu-led coalition government's plans to annex parts of the West Bank. Although arms transfers have implications for the Middle East Peace process and the EU's preference for a two-state solution, they only seem to grab headlines when tensions flare up and Israel adopts a more proactive security posture towards Palestinians and the status of the occupied territories.

Yet the EU is a significant source of Israel's arms imports and an important destination for its high-tech and highly integrated defence industry. The EU could therefore successfully leverage its arms exports control regime as a dissuasive foreign policy tool or, at worst, in response to Israeli annexation, as requested by 11 EU member states.

But for the EU's arms export control regime to become a permanent and reliable CFSP tool, member states must also show political courage and agree to update its legal framework. This policy brief outlines how to increase the political and economic cost of the Israeli government's plans to annex parts of the West Bank, along with proposals for how to improve the EU's arms export control regime.

## Introduction

Coherence between the EU's professed values and its external action is constantly put to the test. As the EU and its member states find themselves in an increasingly competitive geopolitical international order, the US has abdicated its role as leader of the West and lost legitimacy as a guarantor of peace, security, prosperity and the rules-based international order. This makes it ever more difficult for the EU to achieve unity and be principled in its relations with bilateral partners, regional counterparts and in multilateral fora. The same applies to its relations with Israel and the Occupied Palestinian Territories (OPT).

Since 2017, major challenges to the EU's ability to find a single position on Israel have been: the US recognition of both Jerusalem as the capital of Israel, and the 2018 passage of the 'Nationality Bill' in Israel. Most recently, the newly sworn-in Israeli national unity government declared its intent to annex parts of the West Bank, thereby provoking the Palestinian Authority's withdrawal from its international commitments to the US and Israel. The threats contained in the Israeli government's coalition agreements call to mind actual or potential attempts at annexation by authoritarian countries such as Russia (in Crimea – real) and China (in Hong Kong/Taiwan – potential).

Divisions among member states have also prevented the EU from adopting a united stance on arms exports to Israel. While EU member states have sold arms to Israel – to the tune of €680M per year on average since 2012, there are still serious concerns about Israel's respect for international law and human rights, not to mention the sincerity of its efforts to work towards peace and stability in the MENA region. The EU's trade in arms with Israel undermines the success of the Middle East Peace Process and reveals the weaknesses in its arms export control regime. As such, among the measures the EU could take to dissuade Israel pre-emptively or to respond to Israeli annexation and salvage the two-state solution, a restriction of arms exports must be on the table.

If the EU's Common Position on Arms Exports is to better reflect the principles laid out in the 2016 EU Global Strategy (EUGS), especially in its relations with Israel, changes must be made. Yet, the EU, member states and observers from civil society must recognise the current framework of cooperation with Israel and the legal tools available to them limit their range of action.

## Selective EU-Israel cooperation

The EU and Israel selectively cooperate on a number of issues of significance, ranging from trade and development aid to Horizon 2020 research funding.<sup>1</sup> Its member states, too, are deeply engaged with Israel on topics such as natural gas provision and tourism.

However, the EU's relations with Israel in the context of the Middle East Peace Process are strained to say the least, dating back to the tensions caused by the 1973 European Political Cooperation (EPC) declaration on the recognition of Palestinians' "legitimate rights". The EU and its member states were relegated from that moment to a marginal role in the international community's pursuit of peace, stability, and predictability in the Middle East.

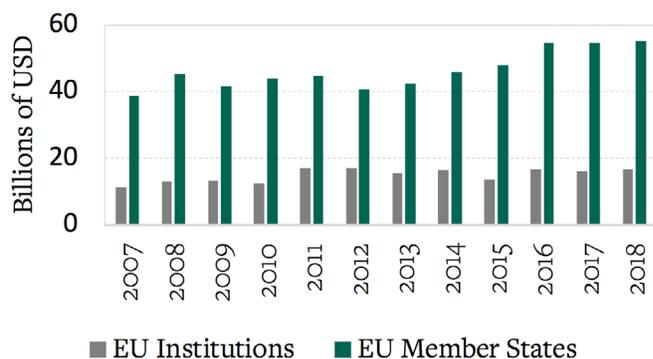
The 1980 Venice Declaration recognising Palestinians' right to self-determination was the nail in the coffin for the EU's role in the Peace Process, despite its geographical proximity, economic linkages and shared historical experiences. In fact, the EU was completely absent thereafter both in Madrid in 1991 and, more significantly, Oslo in 1993.

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<sup>1</sup> Mladenova, C. (2020), "Horizon 2020 Grants to Israel: Streamlining Evaluation Frameworks with EU Foreign Policy Principles" [Working title]. Paris: Sine Qua Non Think Tank, forthcoming.

Figure 1. EU Institutions and Member State ODA to the UNRWA

Source: OECD



EU’s role in supporting the Peace Process has been limited – even veering towards enabling the status quo. Selective cooperation and retrenchment from overt criticism towards Israel allowed for a 2008 agreement with Israel on trade in agricultural goods. Israeli bitterness towards the EU has re-emerged following the European Court of Justice’s 2019 ruling establishing that goods produced in Israeli settlements must be labelled accordingly so as to specify their OPT.<sup>2</sup>

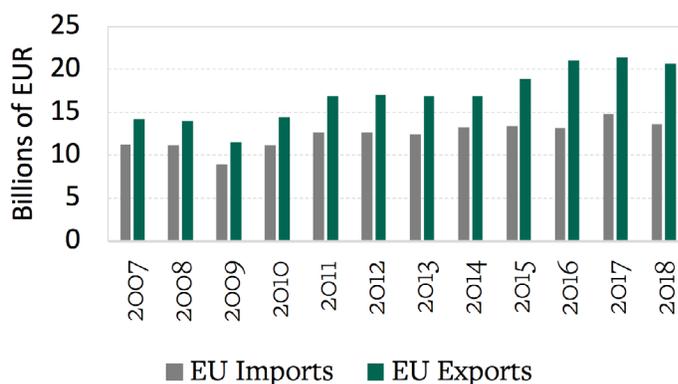
Notwithstanding, trade between the two has steadily increased since the 2008 financial crisis, with the EU being Israel’s primary trading partner. Most recently, the EU has been completely sidelined by the Trump administration in formulating its “Deal of the Century” proposal to end the Israel-Palestinian conflict. Furthermore, both a less member state-dependent HRVP and the EU Council of Foreign Ministers have spoken out against the Netanyahu-led coalition government’s plan to annex parts of the West Bank, so far with the notable holdouts of Austria and Hungary. It is evident that, historically, there has been much stronger cooperation in trade matters than in CFSP, although fractures are appearing, even in trade, due to the unresolved status of the OPT.

Seeking to depoliticise relations after years of turbulence and nonetheless riding the wave of success in Oslo, the EU and Israel agreed to upgrade their trade relations by signing a new Association Agreement in 1995 in the context of the nascent Euro-Mediterranean Partnership. The EU has contributed to the Peace Process since Oslo by earmarking significant development aid via the United Nations Relief and Works Agency for Palestine Refugees (UNRWA) to facilitate the provision of basic services and consolidate institutions in the OPT. However, since Benjamin Netanyahu’s first term as Prime Minister, relations have faltered once again.

A staunch supporter of a two-state solution, the

Figure 2. EU - Israel Trade Volume

Source: Eurostat



## EU-Israel arms exports: State of Play

At the crossroads between trade and CFSP, EU arms exports to Israel is a topic that remains unexplored. In fact, although these exports have implications for a successful Middle East Peace process and the EU’s preference for a two-state solution, arms sales to Israel only seem to grab headlines when tensions flare up and Israel adopts a more proactive security posture towards Palestinians and the status of the OPT. Restricting arms trade as a foreign policy tool in relations with Israel is nothing new. Both France (1967-74)

<sup>2</sup> Judgment of the Court of 12 November 2019, *Organisation juive européenne and Vignoble Psagot Ltd v Ministre de l’Économie et des Finances*, C-363/18, ECLI:EU:C:2019:954.

and the United Kingdom (1982-94) have imposed arms embargoes against Israel.

Table 1. Value of Licensed Arms Exports to Israel since 2001, per supplier and weapons type

Year	€	Supplier	€	Rating	€
2018	568,386,804	Germany	2,349,190,075	Aircraft	1,109,063,768
2017	758,817,820			Warships	1,095,292,682
2016	373,715,359	France	2,021,067,942	Vehicles, tanks	955,063,074
2015	966,901,248	United Kingdom	621,999,575	Miscellaneous	519,315,778
2014	998,733,413	Italy	528,073,744	Imaging eqpt.	415,380,988
2013	370,821,353	Romania	291,570,586	Electronic eqpt.	395,244,092
2012	613,025,607	Slovakia	107,773,556	Explosive devices	391,010,395
2011	157,115,732	Spain	90,055,733	Weapon firing eqpt.	364,628,946
2010	113,589,743	Czech Republic	80,260,382	Technology	288,358,087
2009	113,745,253	Belgium	65,533,233	Ammunition	167,721,809
2008	162,261,544	Bulgaria	59,160,425	Armour	165,850,773
2007	199,409,350	Poland	48,545,600	Unfinished goods	106,566,354
2006	127,149,404	Austria	26,533,793	Small arms	99,250,306
2005	145,403,816	Netherlands	15,384,845	Chemical agents	67,352,948
2004	143,834,364	Miscellaneous	13,050,000	Explosives	50,264,723
2003	230,447,049	Hungary	12,965,621	Manufacturing eqpt.	39,415,162
2002	224,440,677	Slovenia	10,922,395	Engineering eqpt.	37,835,846
2001	98,054,846	Greece	9,523,863	Software	27,302,993
		Ireland	6,448,758	Simulation eqpt.	26,988,108
		Portugal	3,572,034	Light weapons, artillery	18,837,105
		Finland	2,295,354	Ballistics	18,732,898
		Denmark	1,261,936	Beam weapons	6,316,547
		Luxembourg	525,804	Cryogenics & superconductors	60,000
		Cyprus	83,372		
		Croatia	54,756		

SOURCE: OFFICIAL JOURNAL OF THE EUROPEAN UNION, ANNUAL REPORTS ON THE EUROPEAN UNION COMMON POSITION ON ARMS EXPORTS VIA THE EUROPEAN NETWORK AGAINST ARMS TRADE.

Such embargoes have proved ineffective, for a variety of reasons. Israel found loopholes,<sup>3</sup> increased investments in their own defence industrial and technological base and pivoted toward the US as their uncontended supplier. The leverage of the French and British, and their credibility as partners, has thus diminished.<sup>4</sup> Other findings also point to the fact that arms embargoes are ineffective when unilaterally imposed and detached from comprehensive packages that aim to achieve targeted policy results.

Furthermore, there are grounded concerns that more EU arms exports correlates with an increase in human rights violations by its arms trade partners around the world. Therefore, embargo initiators may be unable to reach some of their purported ends, especially if not supported by the wider international community.<sup>5</sup>

3 Kolodziej, E., 1987. *Making and Marketing Arms*. Princeton: Princeton University Press, pp. 343-344.

4 Øberg, J. (1975). Third World Armament: Domestic Arms Production in Israel, South Africa, Brazil, Argentina and India 1950—75. *Instant Research on Peace and Violence*, 5(4), pp. 226-228. JSTOR.

5 Erickson, J. L. (2011). Market imperative meets normative power: Human rights and European arms transfer policy. *European Journal of International Relations*, 19(2), 209-234. doi:10.1177/1354066111415883.

Yet arms exports to Israel merits renewed attention at EU level, given recent developments in the Israeli government's position vis-à-vis a sustainable two-state solution.

Israel represents only a fraction of the value of (reported) EU arms exports since 1998, totalling about 0.5% of the value of licences granted by EU member states in that timeframe, including intra-EU trade. Yet, from 2014 to 2018, Germany and Italy alone supplied 35% of Israel's arms imports. Additionally, the EU's exports must be considered because of the regional instability generated by a militarisation of the Middle East and the political sensitivity of the Palestinian cause. Israel's largest European suppliers are Germany, France, the pre-Brexit United Kingdom, and Italy, with aircraft, vessels of war, and ground vehicles being their chief exports.

Reasons for continued arms exports, despite the instability in the Middle East, include industrial interests, especially in the case of the largest four member states. In fact, these countries are home to about 20 companies that regularly make the SIPRI top-100 largest arms-producing and military services companies in the world. Furthermore, EU suppliers have an added incentive to cooperate with the Israeli arms industry due to its high-tech pedigree and privileged relationship with US firms.

Although not precisely quantifiable, European countries are the destination of about 25% of Israeli arms exports. Off the back of a strong Israeli defence industrial and technological base led by Elbit, Israel Aerospace Industries and Rafael, and powered by a well-integrated value chain, Israel regularly places itself as a top-10 arms exporter globally.

Major supporters of NATO in Slovakia, Bulgaria and Poland also outpace traditionally large exporters such as Belgium, the Netherlands, Denmark and Sweden.<sup>6</sup> In this sense, their arms exports to Israel may signal their political support for the US's foreign policy objectives in the Middle East. In other cases, it may be that the delocalisation of Israeli production inflates export numbers, such as in the case of the defence electronics company Elbit's longstanding presence in Romania, or ongoing defence cooperation, such as that with Greece and Cyprus since 2017. Lastly, socio-cultural ties may play a role, such as in the case of a traditionally strong rapport between the Czech Republic and Israel.

## The EU arms exports control regime

EU arms exports are regulated by the EU Common Position 2008/944/CFSP, governing how member states should control their exports of military technology and equipment. The Common Position is indeed legally binding but, as a CFSP act, benefits from ECJ jurisdictional immunity. This means that only national judicial bodies *may* determine whether member states have diligently interpreted the spirit of the eight criteria below. Otherwise, member states are free to apply the Common Position as they wish.

The Common Position establishes that export controls be carried out on a case-by-case basis, weighing the suitability of granting a licence against the fulfilment of the criteria. These criteria include typical cases in which licences should be denied. Yet it is difficult to draw a link between the exports of certain weapons and a macro outcome in the buying country, such as internal repression, the violation of international law or an increased threat to regional stability. The Common Position, reinforced by the provisions of the 2014 Arms Trade Treaty, clearly lacks teeth due to the case-by-case approach adopted by member states in their arms export licensing.

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<sup>6</sup> Officially, Sweden and Denmark have not granted any licences for arms exports to Israel, which raises questions about whether Swedish and Danish arms are destined for re-export to Israel via third countries. The data may also be a little skewed by Cyprus and Greece's lack of transparency in reporting.

*Box 1. The eight criteria of the EU Common Position*

**Criterion One:** Respect for the international obligations and commitments of member states, in particular the sanctions adopted by the UN Security Council or the European Union, agreements on non-proliferation and other subjects, as well as other international obligations.

**Criterion Two:** Respect for human rights in the country of final destination as well as respect by that country of international humanitarian law.

**Criterion Three:** Internal situation in the country of final destination, as a function of the existence of tensions or armed conflicts.

**Criterion Four:** Preservation of regional peace, security and stability.

**Criterion Five:** National security of the member states and of territories whose external relations are the responsibility of a member state, as well as that of friendly and allied countries.

**Criterion Six:** Behaviour of the buyer country with regard to the international community, as regards in particular its attitude to terrorism, the nature of its alliances and respect for international law.

**Criterion Seven:** Existence of a risk that the military technology or equipment will be diverted within the buyer country or re-exported under undesirable conditions.

**Criterion Eight:** Compatibility of the exports of the military technology or equipment with the technical and economic capacity of the recipient country, taking into account the desirability that states should meet their legitimate security and defence needs with the least diversion of human and economic resources for armaments.

Because the Common Position is within the remit of CFSP, its provisions, implementation and monitoring of conventional arms exports are by nature political at the EU level. For example, what constitutes a clear violation of the criteria is vague and open to interpretation. As such, it also makes sense to look at the EU's arms export control regime in terms of political will and strategic thinking. The non-legally binding 2016 EU Global Strategy makes reference to arms export controls as an aspect of the "widening" (diffusion) of EU and international norms and institutions.

In fact, in line with the concept of EU lawfare, the EUGS specifically mentions the expansion of membership, universalisation, full implementation and enforcement of arms control regimes along with a strengthening of the Common Position and of arms control authorities in third countries. If these priorities are the EU's objectives, then the means to these ends must be increasing or decreasing arms sales and applying the criteria, more or less rigorously. Yet, but for a vague reference to dual-use items, arms exports are not mentioned as part of an integrated approach to conflicts and crises, despite the Common Position's emphasis on the impact of arms transfers on regional stability and, in the words of the EUGS, "pre-emptive peace".

In their relations with Israel, it appears that member states acknowledge that certain arms exports contravene their core interests of guaranteeing security, ensuring prosperity, and promoting a rules-based global order. The last is particularly of concern, as Israel has blatantly disregarded international law through its settlements in the OPT and currently plans to annex portions of the West Bank. Since 1998, Israel has the third highest number of export licence refusals, after China and Pakistan. Yet, reporting on the criteria used for each refusal was fuzzy before the adoption of the Common Position, so it is difficult to establish the extent of refusals before 2009.<sup>7</sup>

<sup>7</sup> Data is available at (but unable to independently confirm): Pozo Marín, A. (2009). *Spain-Israel: Military, Homeland Security and Armament-Based Relations, Affairs and Trends*. Barcelona: Open Print.

EU member states are most worried about Israel's respect for human rights and humanitarian law (criterion #2); the existence of internal tensions and armed conflicts (#3); threats to regional peace, security and stability deriving from arms exports (#4); and the risk that arms be diverted toward undesired destinations (#7).

Yet there is clearly a lack of harmonisation between member state refusal practices with conventional arms exports, as demonstrated below by the relatively inconsistent application of the criteria over time, despite a persistence and aggravation of the situation on the ground in Israel and the OPT. Likewise, harmonisation lacking in the field of dual-use items for nuclear purposes, especially regarding national general export authorisations. This lack of harmonisation is compounded by a lack of reporting on dual-use exports themselves.

*Table 2. Number of arms export refusals for Israel per year and criteria invoked*

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
<b>Criterion 1</b>			1			1		2	1		5
<b>Criterion 2</b>	9	10	11	13	1	2			1	3	50
<b>Criterion 3</b>	9	11	11	9		3			1	2	46
<b>Criterion 4</b>	8	9	10	11		4	1	1			44
<b>Criterion 5</b>						1					1
<b>Criterion 6</b>					1	1			1		3
<b>Criterion 7</b>	9	3	4	2	2	1				5	26
<b>Criterion 8</b>											0

SOURCE: OFFICIAL JOURNAL OF THE EUROPEAN UNION, ANNUAL REPORTS ON THE EUROPEAN UNION COMMON POSITION ON ARMS EXPORTS.

It is only through the Common Position that EU member states have a way of justifying restrictions of conventional arms exports<sup>8</sup> to domestic stakeholders, Israel and their international partners. Due to both changes in the EU's trade policy since the 1990s and the difficulties associated with finding a united position on Israel, the EU cannot use the provisions of the EU-Israel Association Agreement (AA) to reduce arms trade. The AA is truly the product of a lowest common denominator approach. Whereas AAs with Ukraine and Georgia establish the objective of gradual convergence with the EU on CFSP matters such as arms export controls, the EU-Israel AA completely excludes the production and trade in arms, munitions and war materiel from its scope.

## **Policy recommendations for the EU arms export control regime**

The field of arms exports is one in which the EU can put its Art. 21(2) TEU values into practice. By taking Israel as a case study, certain policy weaknesses stand out. Israel's response to the security dilemma has historically been to follow two lines. The first is to strengthen its own defence technological and industrial base by supporting national champions Elbit, Israeli Aerospace Industries, and Rafael.

Second, it has sought to complement national investments in research, development and autonomous production by importing the materiel and technology it needs from abroad. While the EU can have an influence on the first track through a reduction of Horizon 2020 funding and arms procurement from Israel, it can also play a more important role by strengthening its approach to arms exports.

With Israel, the primary concern for member states has been and should be how the sum of exports affects

<sup>8</sup> Additionally, the Commission has not commenced infringement proceedings against member states regarding Council Regulation (EC) No 428/2009 on the control of exports, transfer, brokering and transit of dual-use items.

regional stability, human rights, whether it violates international law and risks arms winding up in the wrong hands. These include latent or existing conflicts with Iran, Saudi Arabia, Lebanon and the Occupied Palestinian Territories, along with myriad violations of UNSC Resolution 242 of 1967, due to the construction of illegal settlements and the separation wall. While these macro concerns are occasionally recognised by member states in their denial of arms export licences, they continue to export arms and dual-use items due to the ad hoc, case-by-case nature of the EU Common Position.

So, what firepower does the EU have to improve its arms export control regime and leverage it as a more effective and reliable CFSP tool? Barring treaty change, the following proposals could be considered to improve the EU's coherence between the two-state solution and its arms export policy, listed from the most actionable to the most ambitious:

**Challenge: Mandatory reporting provided for by the EU Common Position is still not sufficiently transparent.**

*Solutions:*

1. Member states should seriously consider implementing the European Parliament's Security and Defence Subcommittee's May 2020 "Recommendations for a transparent and detailed reporting system on arms exports within the EU and to third countries", in particular regarding the 2019 update of the Common Position's additional requirement of a searchable online database. Member state reporting must include a series of new elements:
  - a. the type and quantity of exported items per military list heading per recipient country in order to know average value per item;
  - b. a disaggregation of licence denials per member state and military list heading;
  - c. requirements that member states include arms export values and not just licence (pre-contract) values;
  - d. aggregated data per region, such as the MENA region and the option to exclude intra-EU arms trade
  - e. disaggregated data on the quantity, type, and value of trade in dual-use items and license refusals thereof similar to those provided for by the Common Position;
  - f. downloadable data in Excel format so as to facilitate data visualization and an online map similar to the EU Sanctions Map.
2. EU institutions and member states have a responsibility to interact transparently with European defence industrial and technological base (EDITB) interest groups. This should be done by updating the Common Position to include the requirement of regularly publishing the frequency and details of meetings between Commission, Parliament, Council and member state representatives and arms manufacturers. This is especially important considering the significant role that may be played by the newly established Directorate-General for Defence Industry and Space (DG DEFIS). As such, the Commission should make the utmost effort to regularly consult with the European Parliament on adjustments to the Common Position.

**Challenge: Under the current Common Position, member states tend to favour economic interests over a strict application of the criteria due to the case-by-case nature of licence authorisations.**

*Solutions:*

Beyond unambiguously defining what a clear breach or violation of the criteria consists of, EU member states

must adopt a conditionality-approach to the Common Position through a series of changes to the criteria:

1. Criterion 2: Importing countries must sign and ratify the Arms Trade Treaty, Biological and Toxin Weapons Convention, Chemical Weapons Convention, and Nuclear Non-Proliferation Treaty. Exporting member states must reject licenses in cases of blatant disregard for UN Security Council resolutions, violations of the principle of self-determination and attempts of annexation.
2. Criteria 2 and 3: The EEAS should begin or continue their reporting on political terror, human rights and religious freedom and the results of such reports should be linked to the Common Position so that case-by-case authorisations take into account the wider picture. The Common Position should also include references to the impact of arms exports on refugee flows and internally displaced persons.
3. Criterion 4: This Criterion must be strictly applied. The Common Position is clear that arms exports should not be licensed both in cases of “a claim against the territory of a neighbouring country which the recipient has in the past tried or threatened to pursue by means of force” and when exports would “adversely [affect] regional stability in any significant way”. In regard to Israel, the Golan Heights and the West Bank settlements are both clear-cut cases of such violations. Jordan, Egypt, and the rest of the Arab League have also clearly warned that any further territorial grabs and extension of the remit of application of Israeli law would cross a red line and seriously affect regional stability.
4. Criterion 7: Member states should delegate the task of monitoring and reporting on re-exported arms to the EEAS or DG DEFIS, thereby reinforcing the integrated approach laid out in the EUGS. They could use and complement the UK-based Conflict Armament Research group’s iTrace platform.

**Challenge: Industrial interest groups and third country lobbying tend to weaken member states’ proposals to strengthen the EU Common Position and their ability to find common ground on restrictive measures for arms exports and procurement.**

*Solutions:*

1. Increased EU-wide defence procurement on the single market, impactful EU funds for R&D and greater defence cooperation within the Single Market through joint capabilities development would alleviate industrial pressure by substituting the export-dependence of the EDITB. This also raises the question if the EDF regulation should be modified so as to require that capabilities developed partly thanks to EDF funding be subject to more stringent export controls.
2. As chair of the Foreign Affairs Council, HRVP Borrell should continue using his political capital to encourage greater consensus among member states on Israel, including vis-à-vis exports of conventional arms and dual-use items. This would help overcome divide-and-rule tactics by third countries, such as Israeli funded interest groups in the EU, and a tendency to accept the lowest common denominator solution. Impulse generated by this unity could even lead member states to consider more concretely moving toward QMV on restrictive measures. The monitoring and enforcement of such restrictive measures could be more effective if done so at the EU level by an authority such as the European Banking Authority, which would act as the EU version of the US Office for Foreign Asset Controls within the Treasury Department. In the case of arms-related restrictive measures, case-by-case licensing tasks could be gradually accorded to DG Trade, much how the Commerce Department is increasingly responsible for arms export licensing in the US rather than the State Department or Department of Defense.

**Challenge: Under the current Common Position, member states hold on to a high degree of discretion in granting arms export licences.**

*Solutions:*

1. The Common Position could be modified such that if member states would like to authorize an export that has been previously denied by another member state, the following consultations should

include the presence of the EEAS and DG DEFIS, for both conventional arms exports and dual-use items, in order to strengthen coordination between EU institutions and member states on policies with both an internal and external dimension. Initially, the Common Position could be modified to allow more EU-inclined member states or those strapped for resources to do so in a differentiated manner.

2. The Commission could use its dual-use competences to be more incisive on arms export control, such as by expanding the definition and list of dual-use items.
3. The EEAS must also work to strengthen and coordinate EU-wide intelligence capabilities in order to monitor end use and prevent diversion of arms toward undesired recipients. This will require further investments in developing the EEAS's Single Intelligence Analysis Capacity and a call by the HRVP and favourable member states to increase information-sharing.

These proposals will all require that HRVP Borrell play a proactive role within the Commission Project Group on the Defence Union and Coherence Meetings, as well as build consensus while presiding the EU Foreign Affairs Council.

## Conclusions

If Israel unilaterally proceeds with its annexation of vast areas of the West Bank, the bare minimum the EU should do is react as it did to Russian aggression. However, in the absence of broad consensus on wider restrictive measures due to the likely opposition of Israel's staunchest EU supporters, other solutions must be put on the table, as requested by 11 of the EU's most critical member states. As the US remains relatively acquiescent towards the Israeli government's annexation plans, what arms might the EU use to deter Israel or eventually respond to annexation?

Currently, mechanisms for dialogue and consultations with Israel are underdeveloped, and political channels have long been exhausted. First, the EU should adopt restrictive measures including, but not limited to, arms sales to Israel and procurement from the Israeli defence industry. The effectiveness of such measures will lie in their comprehensiveness and ability to disrupt the global value chains on which Israel's industrial defence and technological sector depends.

These measures must be multifaceted to be effective, such as through the suspension of R&D cooperation and the EU-Israel Association Agreement, in particular regarding agricultural imports from settlement areas. While the Association Agreement includes suspension clauses (Articles 76 & 79), which can be used in case of setbacks in the Peace Process, these have not been used, despite calls from the European Parliament to do so in the past. Furthermore, the EU could find unity in recognising Palestinian statehood. If EU member states were to speak in unison, it would give the EU the credibility it needs to form an international coalition with like-minded partners.

Looking forward, should the EU wish to update its cooperation with Israel and have its say on a constructive solution to the current Middle East impasse, it must insist on the inclusion of provisions stipulating that continued cooperation and trade depends on Israel's efforts to de-escalate tensions in the Middle East and respect the principles of national integrity, self-determination and UN Security Council Resolution 242 on 1967. On the topic of the EU's arms export control regime, institutional and member state policymakers should also consider the above policy recommendations.

All these proposals share one common trait: in order to improve the EU's coherence in its external action, EU member states must adopt a truly European vision and demonstrate the political courage needed put its treaty-enshrined values into practice in the international arena. The EU can still return to a principled approach to its external relations, beginning with its arms trade with Israel.

## Policy Recommendations

1. If Israel's plans to annex parts of the West Bank move forward, EU member states must consider adopting restrictive measures against arms exports to Israel and arms procurement from Israel, along with the suspension of Horizon 2020 funding, a re-evaluation of the Association Agreement and EU-wide recognition of Palestinian statehood. Ideally, these should be EU-wide and agreed upon with partners in the international community.
2. Beyond unambiguously defining what a clear breach or violation of the Common Position consists of, EU member states must adopt a conditionality-based approach through a series of changes to the criteria against which exports are weighed on a case-by-case basis.
3. Mandatory reporting provided for by the EU Common Position is still not sufficiently transparent and must be adjusted to better reflect the requests of the European Parliament and civil society.
4. Loopholes should be closed in the EU Common Position that currently give member states ample discretion in applying the criteria, leaving them vulnerable to divide and rule tactics by lobby groups and third countries. In order to improve unity in years to come and to ensure the enforceability of the Common Position, EU institutions must find ways of coordinating member states, investing in greater intelligence capabilities and plugging in where they can, such as on dual-use items. HRVP Borrell should also engage in constructive dialogue with the member states and put arms exports and the Common Position on the agenda for the Commission Project Group on the Defence Union and Coherence Meetings.

