

IV. Developments in the European Union's dual-use and arms trade controls

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The European Union (EU) is currently the only regional organization with a common legal framework for controls on the export, brokering, transit and trans-shipment of dual-use items and military items. The key elements of this legal framework are the EU's arms embargoes (addressed in section II of this chapter), the EU dual-use regulation, the EU foreign direct investment (FDI) screening regulation, the EU common position on arms exports (EU common position), the EU directive on intra-Community transfers, and the EU anti-torture regulation. During 2023 the EU took further steps in an ongoing process of implementing a new version of the dual-use regulation that came into force in 2021. The EU also signalled its growing interest in using trade controls to regulate exports of advanced and emerging technologies in the European Commission's proposed European Economic Security Strategy (EESS) released in June 2023. The EU reported on steps taken to implement the FDI screening regulation and continued its coordination with the United States on export control issues, particularly via the Trade and Technology Council (TTC). The EU also continued work on a review of the EU common position that is due to conclude in 2024. No major developments took place with regard to the directive on intra-Community transfers or the anti-torture regulation.

The European Union dual-use regulation

The EU dual-use regulation covers controls on the export, re-export, brokering and transit of dual-use goods, software and technology. The regulation is directly applicable law in EU member states but is implemented and enforced via their national control systems. A new version, Regulation (EU) 2021/821, entered into force in September 2021, introducing several new elements and consultation procedures.¹ During 2023 the EU continued to further elaborate and implement these new elements and procedures. There were signs that,

¹ 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), *Official Journal of the European Union*, L206, 11 June 2021. For a detailed overview of the content of Regulation (EU) 2021/821 see Bromley, M., Brockmann, K. and Maletta, G., 'Developments in the European Union's dual-use and arms trade controls', *SIPRI Yearbook 2021*, pp. 587–96; Bromley, M., Brockmann, K. and Maletta, G., 'Developments in the European Union's dual-use and arms trade controls', *SIPRI Yearbook 2022*, pp. 620–24; and Bromley, M. and Brockmann, K., 'Implementing the 2021 recast of the EU dual-use regulation: Challenges and opportunities', Non-proliferation and Disarmament Paper no. 77, EU Non-proliferation and Disarmament Consortium, Sep. 2021.

as in 2022, progress in these efforts was hampered by the attention that EU and member state export control officials assigned to the development and implementation of the trade restrictions imposed on Belarus and the Russian Federation (see section II) and to the new EESS (see discussion on transmissible controls below).²

Cybersurveillance tools

One of the most significant changes introduced by Regulation (EU) 2021/821 was a new ‘catch-all control’ for regulating exports of non-listed cybersurveillance items. Under the new catch-all control, cybersurveillance items that do not appear on the EU dual-use list require a licence ‘if the exporter has been informed by the competent authority that [the items] may be intended, in their entirety or in part, for use in connection with internal repression and/or the commission of serious violations of human rights and international humanitarian law’.³ The EU dual-use list details the items that are subject to control under the dual-use regulation and is a compilation of the control lists adopted by the multilateral export control regimes (see section III above). Exporters are also required to inform their national authorities if they are ‘aware according to [their] due diligence findings’ of any such risks.⁴

Regulation (EU) 2021/821 also committed the European Commission and the Council of the EU to produce guidelines to inform exporters on how to comply with the new catch-all control. In March 2023 the EU published a draft version of the guidelines and invited input from stakeholders.⁵ The draft guidelines sought to provide clarity on some of the terms used in the definition of cybersurveillance items and the catch-all control, for example ‘specially designed’, ‘covert surveillance’, ‘internal repression’, ‘awareness’ and ‘are intended for’. The Commission noted that most of the stakeholder feedback they received from industry asked ‘for concrete practical examples’ illustrating ‘the concepts identified in the guidelines’ and ‘for information on specific processes to be followed when exporting cyber-surveillance items’ accompanied by relevant case studies.⁶ The Commission indicated that the final version of the guidelines would be published in the second half of 2023 but, as of 31 December 2023, no document had been released.⁷

² See Bromley, M., Brockmann, K. and Maletta, G., ‘Developments in the European Union’s dual-use and arms trade controls’, *SIPRI Yearbook 2023*; and EU member state official, communication with the author, 22 March 2024.

³ Regulation 2021/821 (note 1), Article 5(1).

⁴ Regulation 2021/821 (note 1), Article 5(2).

⁵ European Commission, ‘Guidelines on the export of cyber-surveillance items under Article 5 of Regulation (EU) No. 2021/821’, 31 Mar. 2023.

⁶ European Commission, ‘Public consultation, Guidelines on the export of cyber-surveillance items under Article 5 of Regulation (EU) No 2021/821, Factual summary report’, 25 July 2023, p. 4.

⁷ European Commission, Factual summary report (note 6), p. 4.

The guidelines are expected to focus on informing companies about their obligations to apply for licences for exports of non-listed cybersurveillance tools. They will not seek to guide or align the practices of member states when it comes to issuing licences for exports of either listed or non-listed cybersurveillance tools. Parliamentarians and non-governmental organizations (NGOs) have argued that EU member states' implementation of these controls has often been inconsistent and have highlighted cases where some have approved exports of cybersurveillance tools to countries that are likely to use them in ways that violate human rights.⁸

Transmissible controls and controls on 'emerging technologies'

Regulation (EU) 2021/821 also established new mechanisms allowing the EU 'to react rapidly to the serious misuse of existing technologies or to new risks associated with emerging technologies'.⁹ Under Article 9, the regulation added 'prevention of acts of terrorism' to the range of rationales that member states can use to adopt controls on transfers of items not captured by the EU dual-use list. Article 10 creates a new process of 'transmissible controls', which means that controls adopted by one member state under Article 9 can be used by another member state to impose a catch-all control and restrict transfers of those items by informing exporters that they need to apply for an export licence.¹⁰

In October 2023 the Commission published a compilation of control list categories not covered by the EU dual-use list that member states had adopted under Article 9.¹¹ The list consisted of controls that Spain adopted in May 2023 and those the Netherlands adopted in June 2023. The controls adopted by Spain cover additive manufacturing (AM) equipment capable of producing different types of explosives and propellants, quantum computers, and technologies used for imaging and producing advanced semiconductors.¹² Controls on AM equipment capable of producing different types of explosives and propellants have been discussed at the Missile Technology Control Regime and the Wassenaar Arrangement (WA) since 2014, and at the Nuclear Suppliers Group since at least 2016, without being adopted. Factors that have hindered the adoption of controls on AM-related equipment reportedly include the speed at which the technology is evolving, which risks making any control quickly obsolete, and challenges in identifying appropriate technical

⁸ See e.g. Amnesty International, 'New EU Dual Use Regulation agreement "a missed opportunity" to stop exports of surveillance tools to repressive regimes', 25 Mar. 2021.

⁹ Regulation 2021/821 (note 1), Preamble para. 10.

¹⁰ Council of the EU, 'New rules on trade of dual-use items agreed', Press release, 9 Nov. 2020.

¹¹ Compilation of national control lists under Article 9(4) of 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, *Official Journal of the European Union*, C/2023/441, 20 Oct. 2023.

¹² Compilation of national control lists (note 11).

parameters.¹³ Controls on quantum computers have been under discussions at the WA for several years but states have been unable to agree on which set of technical definitions should define their parameters.¹⁴ In December 2023 the USA stated that at the WA it had tabled a proposal for controls on quantum computers that would have been adopted had Russia not vetoed its inclusion (see section III of this chapter).

The controls adopted by the Netherlands concern manufacturing equipment that produces advanced semiconductors using extreme ultra violet lithography, and associated software and technology.¹⁵ The equipment captured by the controls are produced by ASML Holding, a Dutch multinational company and the largest global producer of manufacturing equipment for advanced semiconductors. Since the late 2010s the USA has been restricting exports of advanced semiconductors and related production equipment to China, while using legal and diplomatic resources to persuade or require foreign companies and governments to align with these controls.¹⁶ In early 2023 the USA, the Netherlands and Japan—which is also a world leader in this field—agreed to adopt new controls on exports of machines and software for producing advanced semiconductors.¹⁷ While the USA has described its controls as being focused on restricting transfers to China, the Netherlands and Japan have emphasized when outlining their controls that they apply to all exports, regardless of destination.¹⁸

In June 2023 the Commission published the EESS, a draft economic security strategy for the EU that included a strong emphasis on adopting new and more harmonized controls on transfers of emerging technologies.¹⁹ The EESS highlights the set of ‘risks and vulnerabilities in our societies, economies and companies that did not exist only a few short years ago’ and puts forward a range of proposed responses, including improving the effective-

¹³ Brockmann, K., *Additive Manufacturing for Missiles and Other Uncrewed Delivery Systems: Challenges for the Missile Technology Control Regime* (SIPRI: Stockholm, Oct. 2021), p. 16; and Brockmann, K. and Kelley, R., *The Challenge of Emerging Technologies to Non-proliferation Efforts: Controlling Additive Manufacturing and Intangible Transfers of Technology* (SIPRI: Stockholm, Apr. 2018), pp. 29–30.

¹⁴ European Commission, ‘Emerging technologies developments in the context of dual-use export controls’, Fact sheet, Sep. 2021, p. 14; and Fleuriot, V., Presentation delivered at the EUP2P Third Dialogue on Export Control Governance, Brussels, 25 Oct. 2022.

¹⁵ Compilation of national control lists (note 11), pp. 2–1.

¹⁶ McCarthy, T. J. et al., ‘BIS imposes new controls to limit the development and production of advanced computing and semiconductor capabilities in China’, Akin Gump Strauss Hauer & Feld Alert, 27 Oct. 2022.

¹⁷ Alper, A. and Shepardson, D., ‘US official acknowledges Japan, Netherlands deal to curb chip-making exports to China’, Reuters, 1 Feb. 2023.

¹⁸ White House, ‘Remarks by National Security Advisor Jake Sullivan on the Biden–Harris Administration’s National Security Strategy’, Briefing Room Speeches and Remarks, 13 Oct. 2022.

¹⁹ See European Commission and EU High Representative for Foreign Affairs and Security Policy, ‘Joint communication to the European Parliament, the European Council and the Council on “European Economic Security Strategy”’, JOIN(2023) 20 final, 20 June 2023.

ness and consistency of the EU's dual-use export controls.²⁰ In October 2023 the Commission followed up on the publication of the EESS by proposing an initial list of four technologies—advanced semiconductor technologies, artificial intelligence, quantum technologies and biotechnologies—that ‘present the most sensitive and immediate risks related to technology security’.²¹ It also launched a consultation process with member states aimed at determining the potential need for additional controls.²²

Public reporting

Regulation (EU) 2021/821 also established new obligations for public reporting on exports of dual-use items. The EU already publishes aggregated annual data on exports of dual-use items using figures voluntarily provided by member states.²³ The new regulation created an explicit requirement for the EU to publish, in an annual report, data on ‘authorisations, denials and prohibitions, as well as information on the administration and enforcement of controls’.²⁴ For cybersurveillance tools the EU commits to publishing annual data on licence applications by item, origin and destination.²⁵ It also tasked the Commission and the Council of the EU with developing a methodology that would guide the process of collecting and publishing data.²⁶ In January 2023 the Commission launched a public consultation in which stakeholders were invited to answer a survey on what information should be collected and reported.²⁷ However, as of 31 December 2023 neither new data nor the methodology had been published. Data on exports of dual-use items released by the Commission in October 2023 covered export licences issued in 2021 and repeated data already released in 2022.²⁸

The foreign direct investment screening regulation

The EU's 2019 FDI screening regulation seeks to enable the EU and EU member states to screen for, and where necessary intervene in, cases where

²⁰ European Commission and EU High Representative for Foreign Affairs and Security Policy (note 19), p. 4.

²¹ European Commission, ‘Commission recommends carrying out risk assessments on four critical technology areas: Advanced semiconductors, artificial intelligence, quantum, biotechnologies’, Press release No. IP/23/4735, 3 Oct. 2023.

²² European Commission, Press Release No. IP/23/4735 (note 21).

²³ European Commission, ‘Statistical update on dual-use export control (2021)’, Commission Staff Working Document, SWD(2023) 341 final, 19 Oct. 2023, p. 2.

²⁴ European Commission, SWD(2023) 341 final (note 23), p. 2; and Regulation 2021/821 (note 1), Article 26(2).

²⁵ Regulation 2021/821 (note 1), Article 26(2).

²⁶ Regulation 2021/821 (note 1), Article 26(2).

²⁷ European Commission, Director-General for Trade, ‘Commission launches stakeholder consultation on how data is collected around export controls’, News, 27 Jan. 2023; and European Commission, SWD(2023) 341 final (note 23), p. 2.

²⁸ European Commission, SWD(2023) 341 final (note 23).

FDI might allow foreign companies and governments to own and control critical infrastructure, or to gain access to knowledge and technology which may or may not be subject to export controls but which could benefit their defence and security capabilities, and to respond accordingly. Although the FDI screening regulation is not framed as targeting any particular non-EU state, it was developed against a background of heightened concerns about FDI from China. The Russia–Ukraine war has also led to an increased focus on FDI from Russia and Belarus.

On 23 October 2023 the Commission published its third annual report on the implementation of the FDI screening regulation, covering the year 2022.²⁹ The FDI screening regulation does not require member states to have an FDI screening system. However, since it was tabled there has been a significant increase in the number of EU member states with such controls in place: from 11 in 2017 to 22 by the end of 2023. The remaining five member states (Bulgaria, Croatia, Cyprus, Greece and Ireland) were in the process of drafting or adopting new legislation that would put an FDI screening system in place.³⁰

The FDI screening regulation requires member states to notify the Commission and other member states ‘of any foreign direct investment in their territory that is undergoing screening’.³¹ Member states can also provide comments on cases of FDI being screened in another member state and the Commission can issue non-binding opinions.³² The notifications continue to be unevenly distributed across the EU with six member states (Austria, Denmark, France, Germany, Italy and Spain) responsible for more than 90 per cent of cases in 2022.³³ However, this distribution may be a reflection of the fact that cases of FDI are themselves unevenly distributed across the EU. Perhaps more significant is that the number of member states submitting notifications has risen from 11 in 2020 to 13 in 2021 and 17 in 2022.³⁴

During June and July 2023 the EU conducted a targeted consultation on the evaluation and revision of the FDI screening regulation.³⁵ The Commission received 47 contributions from governments, industry and civil society, including 18 from member states.³⁶ The respondents noted the value of the

²⁹ European Commission, ‘Third annual report on the screening of foreign direct investments into the Union’, Report to the European Parliament and the Council, COM(2023) 590 final, 19 Oct. 2023.

³⁰ Barth, C. et al., ‘Proposals to reform EU FDI screening regulation imminent’, Linklaters Blog, 22 Jan. 2024).

³¹ Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union, *Official Journal of the European Union*, L79 I, 21 Mar. 2019, Article 6(1).

³² Regulation (EU) 2019/452 (note 31), Preamble paras 16–19.

³³ European Commission, COM(2023) 590 final (note 29), p. 14.

³⁴ European Commission, COM(2023) 590 final (note 29), p. 12.

³⁵ European Commission, ‘Summary results of the targeted consultation on the evaluation and revision of Regulation (EU) 2019/452 (the “FDI Screening Regulation”)', 28 Nov. 2023.

³⁶ European Commission, ‘Summary results of the targeted consultation’ (note 35), pp. 2, 5.

FDI screening regulation, but there were mixed views on whether it has led to increased convergence of member states' views on what constitutes a risk to security or public order and how these risks are assessed.³⁷ In addition, most respondents noted that the regulation had not increased convergence 'on procedural aspects of national screening mechanisms'.³⁸ The targeted consultation was designed to inform the drafting of a new version of the regulation.³⁹ As of 31 December 2023, the draft version of the new regulation had not been published.

European Union and United States cooperation on export controls

In 2021 the EU and the USA established the Trade and Technology Council (TTC), which they have used to discuss coordinated policies on a range of export control-related issues. In May 2023 the EU and the USA held the fourth TTC ministerial meeting in Lulea, Sweden. Alongside discussions on artificial intelligence, e-mobility standards, semiconductors and supply chains, the meeting advanced the TTC's ongoing work in the field of export controls, including coordination on issues relating to the implementation of the trade restrictions on Russia and Belarus and efforts to address 'enforcement and circumvention risks'.⁴⁰ The meeting also included discussions on identifying particular components that were being used in weapon systems and that should be made subject to controls, as well as on coordinating outreach efforts aimed at convincing more states to align with the controls and assist in their implementation. The TTC also continued efforts aimed at clarifying and simplifying 're-export procedures for the benefit of exporters and to develop a common understanding of how the EU and US rules are applied on both sides of the Atlantic'.⁴¹ In a likely response to China's recent criticisms of the export control regimes and national export control measures, the EU and the USA highlighted the 'central role of multilateral non-proliferation export control regimes' in relation to non-proliferation efforts while also committing to the promotion of 'an environment in which science, technology and legitimate research collaboration can flourish'.⁴²

³⁷ European Commission, 'Summary results of the targeted consultation' (note 35), p. 2.

³⁸ European Commission, 'Summary results of the targeted consultation' (note 35), p. 7.

³⁹ European Commission, COM(2023) 590 final (note 29), p. 24.

⁴⁰ European Commission, Joint statement EU-US Trade and Technology Council of 31 May 2023 in Lulea, Sweden', Statement, 31 May 2023.

⁴¹ European Commission, Joint Statement EU-US Trade and Technology Council of 31 May 2023 in Lulea, Sweden' (note 40).

⁴² European Commission, Joint Statement EU-US Trade and Technology Council of 31 May 2023 in Lulea, Sweden' (note 40). For more on China's criticism of the export control regimes see Bromley, M., Mustafić, S. and Yuan, J., 'China takes aim at the export control regimes: Targeted critique or misguided attack?', *WorldECR*, no. 123, Dec. 2023. See also section III of this chapter.

The European Union common position on arms exports

The EU common position covers controls on the export, transit, transshipment and brokering of military equipment and technology.⁴³ Discussions among EU member states on issues related to the implementation of the EU common position occur on a regular basis at the Council Working Party on Conventional Arms Exports (COARM), chaired by the European External Action Service (EEAS).

In December 2023 the Council of the EU adopted the 25th EU annual report on arms exports, which includes disaggregated data on the financial value and number of member states' export licences, the value of their actual exports and aggregated data on licence denials in 2022.⁴⁴ The report presents recurring shortcomings despite a series of measures, adopted in 2019 following a review of the EU common position, that sought to improve the transparency of member states' arms exports.⁴⁵ For instance, the introduction of a deadline for EU member states to submit information for the annual report to the EEAS (by 30 June each year) has only had a limited impact on the report's timeliness. Following some improvements achieved after the 2019 review for the 22nd and the 23rd annual reports—published in November 2020 and September 2021, respectively—the 24th and 25th annual reports were both published with significant delay, in December 2022 and December 2023, respectively. Further, not all EU member states made a complete submission for the 25th annual report, with several continuing to fail to provide data on actual arms exports (table 12.4). To improve this aspect of reporting, and as mandated by the last review of the EU common position, at the end of 2022 COARM adopted an 'internal good practice paper with elements for developing a national system on reporting actual exports'.⁴⁶ Since 2019 the EU annual report has progressively included more details on the methods used by member states for data collection and submission. However, this information is still presented as a non-standardized series of text descriptions that are difficult to assess and compare.

⁴³ Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, *Official Journal of the European Union*, L335, 8 Dec. 2008.

⁴⁴ Council of the EU, 'Twenty-fifth annual report according to Article 8(2) of Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment', *Official Journal of the European Union*, C59, 16 Feb. 2024.

⁴⁵ Council of the EU, 'Council conclusions on the review of Council Common Position 2008/944/CFSP of 8 December 2008 on the control of arms exports', 12195/19, Press release, 16 Sep. 2019; Ramchurn, M., 'Foreign direct investment—Impact of the EU screening regulation', *Aosphere*, 16 Nov. 2022; Bromley, Brockmann and Maletta, *SIPRI Yearbook 2022* (note 1), pp. 628–29; and Bromley, Brockmann and Maletta, *SIPRI Yearbook 2023* (note 2), p. 555.

⁴⁶ European Union, 'EU key messages: Working group on transparency and reporting', Statement delivered to the Arms Trade Treaty, Ninth Conference of States Parties, Geneva, 16 Feb. 2023.

Table 12.4. Submissions of information to the European Union annual report on arms exports, 2011–22

Annual report	Year covered	No. of states obliged to make submissions	No. of states making submissions	No. of states making full submissions ^a	Proportion of states making full submissions (%)
25th	2022	27 ^b	27	22	82
24th	2021	27 ^b	27	22	82
23rd	2020	27 ^b	27	23	85
22nd	2019	28	28	21	75
21st	2018	28	28	21	75
20th	2017	28	27 ^c	19	68
19th	2016	28	27 ^c	19	68
18th	2015	28	27 ^c	19	68
17th	2014	28	28	21	75
16th	2013	28	27 ^c	21	75
15th	2012	27 ^d	27	20	74
14th	2011	27	27	18	67

^a A 'full submission' is taken to be data on the financial value of both arms export licences issued and actual exports, broken down by both destination and European Union (EU) military list category.

^b The United Kingdom officially left the EU on 31 Jan. 2020 and was not obliged to submit data for 2020 and subsequent years.

^c Greece did not submit data to the 16th, 18th, 19th and 20th reports.

^d Croatia joined the EU in 2013 and was not obliged to submit data for 2012. It submitted data for the first time to the 16th report.

Sources: Council of the European Union, 'Twenty-fifth annual report according to Article 8(2) of Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment', *Official Journal of the European Union*, C59, 16 Feb. 2024.

In 2023 external factors continued to have an impact on the level and quality of information shared in the EU annual report, particularly the ongoing Russia–Ukraine war and the decision of many EU member states to supply arms and other military assistance to Ukraine. In the 25th annual report, three states (Romania, Slovakia and Sweden) noted that their submissions omitted data on the ground of security interests, and two of them (Slovakia and Sweden) specified that such omissions regarded transfers to Ukraine.⁴⁷ Some information on military assistance to Ukraine from these and other EU member states is available in the public domain.⁴⁸ However, these sources may not be able to capture everything that these countries have provided and that in some cases has not been formally reported. Since 2021 the EU annual report has provided information regarding the implementation of assistance measures adopted under the European Peace Facility (EPF) that provide funding for the delivery of military equipment as defined in the EU common

⁴⁷ Council of the EU, 'Twenty-fifth annual report' (note 44), p. 10.

⁴⁸ See e.g. SIPRI, 'SIPRI Arms Transfers Database', [n.d.]; and Forum on the Arms Trade, 'Arms transfers to Ukraine', [n.d.].

military list (CML).⁴⁹ However, the information provided in the relevant tables does not appear to be exhaustive. In particular, the 25th annual report does not include any detail on the deliveries of EPF-funded military materiel to Ukraine and only provides a very approximate description of the items on the CML funded by these and other assistance measures.⁵⁰

In 2023 COARM continued its preparatory work for the next review of the EU common position, due to be completed in 2024.⁵¹ Two of the three thematic groups established as part of this process—focusing on harmonization (under the lead of Germany and Sweden), enforcement (led by Italy and Czechia) and commonly produced military equipment (led by France and the Netherlands)—provided public updates on their work at the annual COARM–NGO meeting that took place in Brussels in July 2023.⁵² During the meeting, France and the Netherlands presented the main points of a working paper under discussion in COARM that outlined possible approaches for aligning the decision-making procedures for states involved in the production of commonly produced military equipment. These measures included making the member state where the final product is assembled responsible for export decisions; and establishing procedures to assess eligible recipients and end-users and to resolve possible disagreements.⁵³ Italy reported on the work of the enforcement group which has focused on post-shipment control measures, information sharing on legal challenges against national authorities, and controls on intangible transfers of technology.⁵⁴

Conclusions

Discussions and processes concerning the content and implementation of the EU's dual-use and arms trade controls continued to be dominated in 2023 by the repercussions of the Russia–Ukraine war. This included the ongoing efforts to expand and implement the trade restrictions on Russia and Belarus and to coordinate these efforts both internally and with the USA. The necessary diversion of resources to these efforts likely accounts for some of the ongoing delays seen in the adoption of the measures associated with implementing the recast of the dual-use regulation. The EU continues to show a strong interest in using existing and potential future policy instruments to align and expand member states' export controls to achieve a range of policy objectives. These include controlling transfers of emerging technologies, guarding against threats to the EU's 'economic security', and facilitating

⁴⁹ On the European Peace Facility see Bromley, Brockmann and Maletta (note 2), p. 557.

⁵⁰ See Council of the EU, 'Twenty-fifth annual report' (note 44), pp. 5–6.

⁵¹ Council of the EU, 'Twenty-fifth annual report' (note 44), p. 2.

⁵² Saferworld, 'The EU, arms, and the new world disorder', Oct. 2023, p. 1.

⁵³ Saferworld (note 52), p. 7.

⁵⁴ Saferworld (note 52), p. 8.

the joint production of military equipment. However, there appears to be little appetite for reducing member states' own prerogatives regarding how exports of dual-use and military items are approved and denied. This means that decision-making about what to control and where to export are often structured by national-level assessments of how to balance competing economic and security concerns.