

AMNESTY INTERNATIONAL PUBLIC STATEMENT



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EU Declaration on Arms Transfers to Syria

On 27 May 2013, after long diplomatic discussions, the European Union (EU) did not renew a total arms embargo on Syria – covering both the Syrian government and armed opposition groups – which expires on 31 May 2013.

EU foreign ministers failed to reach agreement on an extension to the embargo, following a proposal made by the UK and France to amend the embargo to allow arms transfers to Syrian armed opposition groups. The EU will still renew a raft of other restrictions on the Syrian government as part of a sanctions regime in place amid the ongoing internal armed conflict.

No arms transfers to Syrian government forces should take place

Amnesty International is disappointed by the EU decision to not renew the total arms embargo on the Syrian government armed forces and its allied militias. Based on extensive research conducted on the ground in Syria, Amnesty International has found overwhelming evidence that arms transferred to the Syrian authorities have been, and are very likely to be used further in the commission of systematic or widespread violations of human rights – including crimes against humanity and war crimes.

On this basis, Amnesty International is reiterating its call for the immediate imposition of a full UN Security Council arms embargo on the Syrian government. Pending such an international arms embargo, the organization is calling on states in the EU and elsewhere to retain or immediately impose unilateral arms embargoes on Syrian government forces.

The EU's position on arms transfers to Syrian armed opposition groups

With regard to the possible arming of certain opposition groups in Syria, according to the EU Declaration of 27 May 2013 Member States agreed they “will not proceed at this stage with the delivery” but their decision not to renew the arms embargo does allow for possible transfers of weapons to the armed opposition groups. The EU Member States committed to “proceed in their national policies as follows:

- The sale, supply, transfer or export of military equipment or of equipment which might be used for internal repression will be for the Syrian National Coalition for Opposition and Revolutionary Forces and intended for the protection of civilians;
- Member States shall require adequate safeguards against misuse of authorisations granted, in particular relevant information concerning the end-user and final destination of the delivery;
- Member States shall assess the export licence applications on a case-by-case basis, taking full account of the criteria set out in Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment.”

The EU Common Position on arms exports requires Member States - on a case-by-case basis - to take full account of human rights and to not approve an export where there is a clear risk the arms might be used for human rights abuses or serious violations of international

humanitarian law (IHL). Weapons transfers are therefore no longer subject to a ban, but rather to a judgement call.

A rigorous risk assessment process is needed

In practice, this risk assessment process will be complicated. Amnesty International is calling on all States to apply the human rights protection rules of the Arms Trade Treaty and for strict observance of the EU Common Position criteria with regard to assessing the risks of violations of human rights and IHL by any potential recipient of arms from EU Member States.

Amnesty International has gathered evidence of abuses by some of the many armed opposition groups operating in Syria, some of which amount to war crimes, including summary killings of captured members of the security forces, paramilitary militias, suspected informers and others. In our view the evidence available still does not indicate that such abuses are sufficiently widespread or systematic to reach the threshold at which we would call for a comprehensive arms embargo on all arms transfers to all armed opposition groups.

However, because of the existence of such abuses by some armed opposition groups, Amnesty International believes that arms transfers to any armed opposition group in Syria should be withheld until the removal of any substantial risk of serious violations of human rights and IHL. This could be achieved by undertaking a rigorous risk assessment of the likelihood that the arms being considered for export will be used to commit or facilitate serious violations of international human rights or international humanitarian law, and by putting in place concrete, enforceable, transparent and verifiable mechanisms to ensure that any military equipment supplied is not misused or diverted.

Criteria for risk assessments

The risk assessment should examine capacity and ability of an end-user to use weapons, munitions, armaments and related equipment for military operations in accordance with relevant international law, especially international human rights and humanitarian law. This means training in the proper use of the transferred conventional arms and military equipment in accordance with international human rights law (IHRL) and IHL.

The supplying state should ensure that the following measures are in place:

- strict rules of engagement (which conform with IHL and IHRL) for the use of arms by combatants.
- prohibition on the use of child soldiers by any potential recipient group
- rigorous systems to record who is authorized to carry and use weapons and ammunition when they are issued to combatants
- proper accounting for the storage and registration of any arms and ammunition as well as their use.

Adequate arms management systems which could prevent the diversion of arms include effective marking and tracing of arms, as well as safe and secure storage of arms and stockpiles. Rigorous record keeping of stocks, suppliers, storage, possession, use and disposal is absolutely necessary.

No arms which are inherently indiscriminate - and which are banned under international law - such as anti-personnel land mines, cluster bombs or chemical weapons, should ever be used by the recipient combatants or supplied to them.

An assessment by potential suppliers of independent accountability and oversight mechanisms put in place with the potential recipients should be also undertaken, since the level of impunity for abuses is a critical factor to be taken into account when considering whether to supply arms.

Questions to answer could include:

- whether the proposed recipient's chain of command has taken appropriate steps to end violations and prevent their recurrence (such as through investigation and disciplinary action).
- whether there is there evidence of the suspension from duty of any member of the group reasonably suspected of serious violations or abuses.
- whether the group cooperates with impartial, international investigations such as by the UN Human Rights Council's Commission of Inquiry.

The onus should be on states considering military transfers to armed opposition groups to ensure the establishment of a watertight mechanism to prevent any arms supplies from contributing further to grave human rights abuses.

EU states must demonstrate that “adequate safeguards against misuse” are concrete, enforceable, transparent and verifiable before carrying out any arms transfer to Syrian armed opposition groups. Unless governments can ensure and demonstrate that these requirements are met and there does not remain a substantial risk of misuse for serious violations of human rights or international humanitarian law they should not supply any weapons or munitions. Amnesty International is writing to EU Member States regarding the above concerns.

Public Document

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