



547th Plenary Meeting
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DECISION No. 5/08
UPDATING THE OSCE PRINCIPLES FOR EXPORT CONTROLS OF
MAN-PORTABLE AIR DEFENCE SYSTEMS

The Forum for Security Co-operation (FSC),

Recognizing the continued threat posed by unauthorized proliferation and use of man-portable air defence systems (MANPADS), especially to civil aviation, peacekeeping, crisis management and anti-terrorist operations,

Affirming the participating States' conviction to apply strict national controls on the export of MANPADS,

Taking into account Annex C to the Handbook of Best Practices on Small Arms and Light Weapons Concerning the National Procedures for Stockpile Management and Security of MANPADS,

Willing to complement and thereby reinforce the implementation of the OSCE Document on Small Arms and Light Weapons (SALW) and FSC Decision No. 7/03 on man-portable air defence systems, in order to enhance effective export control of SALW in the OSCE area,

Recalling FSC Decision No. 3/04 on OSCE Principles for Export Controls of MANPADS, adopted on 26 May 2004,

Determined to contribute to reducing the risk of diversion of SALW into the illicit market,

Bearing in mind that the OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century adopted at Maastricht in December 2003 notes that the OSCE is using all the tools at its disposal to address proliferation of MANPADS, categorized in the OSCE Document on SALW as portable launchers of anti-aircraft missile systems,

Acknowledging the Wassenaar Arrangement's continued efforts in developing principles on this topic and willing to extend the application of the Wassenaar Arrangement's revised "Elements for Export Controls of Man-Portable Air Defence Systems",

Decides:

To adopt the following revised principles for export controls of MANPADS which have been drawn from the Wassenaar Arrangement's "Elements for Export Controls of Man-Portable Air Defence Systems":

1. Scope
 - 1.1 These principles cover:
 - (a) Surface-to-air missile systems designed to be man-portable and carried and fired by a single individual; and
 - (b) Other surface-to-air missile systems designed to be operated and fired by more than one individual acting as a crew and portable by several individuals.
 - 1.2 National export controls apply to the international transfer or re-transfer of MANPADS, including complete systems, components, spare parts, models, training systems, and simulators, for any purpose, by any means, including licensed export, sale, grant, loan, lease, co-production or licensing arrangement for production (hereafter "exports"). The scope of export regulation and associated controls includes research, design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, servicing, modification, upgrade, modernization, operation, use, replacement or refurbishment, demilitarization, and destruction of MANPADS; technical data, software, technical assistance, demonstration, and training associated with these functions; and secure transportation, storage. This scope according to national legislation may also refer to investment, marketing, advertising and other related activity.
 - 1.3 Any activity related to MANPADS within the territory of the producing country is subject to national laws and regulations.
2. Participating States will exercise maximum restraint in transfers of MANPADS production technologies and, while taking decision on such transfers, will take into account principles, stipulated in paragraphs 3.5., 3.6., 3.7., and 3.9.
3. Control conditions and evaluation criteria
 - 3.1 Decisions to permit MANPADS exports will be made by the exporting government by competent authorities at senior policy level and only to foreign governments or to agents specifically authorized to act on behalf of a government after presentation of an official end-user certificate (EUC) certified by the government of the receiving country.
 - 3.2 General licences are inapplicable for exports of MANPADS; each transfer is subject to an individual licensing decision.

3.3 Exporting governments will not make use of non-governmental brokers or brokering services when transferring MANPADS, unless specifically authorized to on behalf of the government.

3.4 In order to prevent unauthorized use, producer countries will implement technical performance and/or launch control features for newly designed MANPADS as such technologies become available to them.

Such features should not adversely affect the operational effectiveness of MANPADS for the legal user.

3.5 Decisions to authorize MANPADS exports will take into account:

- Potential for diversion or misuse in the recipient country;
- The recipient government's ability and willingness to protect against unauthorized re-transfers, loss, theft and diversion; and
- The adequacy and effectiveness of the physical security arrangements of the recipient government for the protection of military property, facilities, holdings, and inventories.

3.6 Prior to authorizing MANPADS exports (as indicated in paragraph 1.2), the exporting government will assure itself of the recipient government's guarantees:

- Not to re-export MANPADS except with the prior consent of the exporting government;
- To transfer MANPADS and their components to any third country only in a manner consistent with the terms of the formal government to government agreements, including co-production or licensing agreements for production, and contractual documents, concluded and implemented after the adoption of this decision, as well as end-use assurances and/or extant export licences;
- To ensure that the exporting State has the opportunity to confirm, when and as appropriate, fulfilment by the importing State of its end-use assurances with regard to MANPADS and their components¹ (this may include on-site inspections of storage conditions and stockpile management or other measures, as agreed between the parties);
- To afford requisite security to classified material and information in accordance with applicable bilateral agreements, to prevent unauthorized access or compromise; and
- To inform promptly the exporting government of any instance of compromise, unauthorized use, loss, or theft of any MANPADS material.

¹ "End-use assurances with regard to MANPADS and their components" should be understood as their use only for purposes stipulated in the end-user certificate or any other document containing the obligations of the importing State.

3.7 In addition, the exporting government will satisfy itself of the recipient government's willingness and ability to implement effective measures for secure storage, handling, transportation, use of MANPADS material, and disposal or destruction of excess stocks to prevent unauthorized access and use. The recipient government's national procedure designed to attain the requisite security include, but are not limited to, the following set of practices, or others that will achieve comparable levels of protection and accountability:

- Written verification of receipt of MANPADS shipments;
- Inventory by serial number of the initial shipments of all transferred firing mechanisms and missiles, if physically possible; and maintenance of written records of inventories;
- Physical inventory of all MANPADS subject to transfer, at least once a month; account by serial number for MANPADS components expended or damaged during peacetime;
- Ensure storage conditions are sufficient to provide for the highest standards of security and access control. These may include:
 - Where the design of MANPADS permits, storing missiles and firing mechanisms in locations sufficiently separate so that a penetration of the security at one site will not place the second site at risk;
 - Ensuring continuous (24 hours per day) surveillance;
 - Establishing safeguards under which entry to storage sites requires the presence of at least two authorized persons;
- Transport MANPADS in a manner that provides for the highest standards and practices for safeguarding sensitive munitions in transit. When possible, transport missiles and firing mechanisms in separate containers;
- Where applicable, bring together and assemble the principal components — typically the gripstock and the missile in a launch tube — only in the event of hostilities or imminent hostilities; for firing as part of regularly scheduled training, or for lot testing, for which only those rounds intended to be fired will be withdrawn from storage and assembled; when systems are deployed as part of the point defences of high priority installations or sites; and in any other circumstances which might be agreed between the receiving and transferring governments;
- Access to hardware and any related classified information, including training, technical and technological documentation (e.g., MANPADS operation manuals), will be limited to military and civilian personnel of the receiving government who have the proper security clearance and who have an established need to know the information in order to perform their duties. Any

information released will be limited to that necessary to perform assigned responsibilities and, where possible, will be oral and visual only;

- Adopt prudent stockpile management practices that include effective and secure disposal or destruction of MANPADS stocks that are or become excess to national requirements.
- 3.8 Participating States will, when and as appropriate, assist recipient governments not capable of executing prudent control over MANPADS to dispose of excess stockpiles, including buying back previously exported weapons. Such measures are subject to a voluntary consent of the exporting government and the recipient State.
 - 3.9 Exporting governments will share information regarding potential receiving governments that are proven to fail to meet the above export control guarantees and practices outlined in paragraphs 3.6 and 3.7 above.
 - 3.10 To enhance efforts to prevent diversion, exporting governments will share information regarding non-State entities that are or may be attempting to acquire MANPADS.
 - 3.11 Participating States will, when and as appropriate, provide to non-participating States (such as OSCE Partners for Co-operation), upon their request, technical and expert support in developing and implementing legislative basis for control over transfers of MANPADS and their components.
 - 3.12 Participating States will, when and as appropriate, provide to non-participating States, upon their request, technical and expert assistance in physical security, stockpile management and control over transportation of MANPADS and their components.
4. Participating States will ensure that any infringement of export control legislation, related to MANPADS, is subject to adequate penalty provisions, i.e., involving criminal sanctions.
 5. Participating States agree to incorporate these principles into their national practices, policies and/or regulations.
 6. Participating States will report transfers of MANPADS using the OSCE SALW document's information exchange requirements and any MANPADS related information exchange mechanisms that may be agreed in the future.
 7. Participating States will review implementation of these principles regularly.
 8. Participating States agree to promote the application of the principles defined above to non-OSCE countries.

This Decision supersedes FSC Decision No. 3/04, "OSCE Principles for Export Controls of Man-Portable Air Defence Systems (MANPADS)", adopted on 26 May 2004.