



Adviesraad inzake beleidscoherentie
ten gunste van ontwikkeling
Conseil consultatif sur la cohérence
des politiques en faveur du développement

Opinion of the Advisory Council on Policy Coherence for Development

Arms sales to Saudi Arabia

1. Introduction

01. This opinion deals with arms sales to Saudi Arabia and their consequences on human rights violations and the humanitarian crisis in Yemen. It pays particular attention to the role of Belgium in arms exports to Saudi Arabia. It puts forward recommendations that aim to guarantee coherence between the granting of arms export licences and the Sustainable Development Goals adopted in September 2015 by the United Nations General Assembly.

This opinion has been adopted by the Advisory Council on Policy Coherence for Development on 24 May 2018.

Original language of this opinion: French.

2. Presentation of the issue

02. Since September 2014, Yemen has been torn apart by a civil war being fought between Shiite Houthi separatist rebels, supported by army factions loyal to ex-president Saleh, and forces loyal to President Abd Rabbo Mansour Hadi, who was elected following the 2012 revolution and the departure of president Saleh. After the Houthis took control of Sana'a at the end of January 2015, president Hadi fled to Aden. The seizure of Sana'a was denounced by the United Nations and the Gulf Cooperation Council. In March 2015, a regional coalition coordinated by Saudi Arabia was set up to fight the Houthi rebels and reinstate Hadi as president. This coalition received crucial support from the USA and the UK in terms of logistics and intelligence, and relies on a supply of weapons and ammunition from a large number of western countries. Since 2015, the bombardment and naval blockade imposed by the coalition, as well as fighting between the coalition and Houthi rebel forces, have caused a grave humanitarian crisis.

03. Amnesty International and Human Rights Watch have reported various concerns relating to the respect for international law by the coalition led by Saudi Arabia¹, including the use of cluster bombs by the coalition forces in Yemen. These bombs, which are indiscriminate when it comes to civilians, are banned under the 2008 Convention on Cluster Munitions, signed by almost 100 states (but not by Saudi Arabia), as well as under customary international humanitarian law². On the other side, anti-personnel mines have been used by Houthi separatist forces³. Furthermore, military operations carried out by the coalition have included indiscriminate strikes in residential zones, contradicting the principles of the law of war⁴. The coalition has regularly bombed schools, hospitals, houses and even markets. Houthi rebels, for their part, have also violated the law of war⁵.

04. As a result of the fighting and bombardment, the humanitarian situation in Yemen is dire. According to the OCHA, the United Nations Office for the Coordination of Humanitarian Affairs, 22.2 million people (three quarters of the population) are in need of humanitarian assistance, 3.1 million are internally displaced and 17.8 million are food insecure⁶. According to the WFP, 7 million are on the brink of famine⁷. Health and medical infrastructure suffers bombing by the regional coalition. There is insufficient expertise or infrastructure within the remaining hospitals to contend with the cholera epidemic which broke out on 27 April 2017. The fact that a significant proportion of the population is malnourished favours the spread of this epidemic.

05. Saudi Arabian arms imports increased by 212% between the periods 2007-2011 and 2012-2016, making the country the second biggest arms importer in the world⁸. The USA is the biggest supplier of arms to Saudi Arabia. Between 2008 and 2016, the Obama administration signed arms contracts worth \$93 billion with the Saudi kingdom⁹. During his visit to Saudi Arabia on 20 May 2017, President Donald Trump announced the signing of arms contracts worth \$110 billion, a portion of which, however, builds on old contracts signed under the Obama administration¹⁰. The European Union is also an important supplier of arms to Saudi Arabia. Between 2001 and 2015, Member States of the European Union granted arms export licences for Saudi Arabia worth over €57 billion¹¹.

06. Belgium, a country that is heavily involved in the arms trade, is an exporter of arms to Saudi Arabia. Flanders exports cutting-edge weapons technology, whereas Wallonia mainly exports small

¹ Lauriane Héau and Christophe Stiernon, *La guerre oubliée du Yémen : impasse militaire, casse-tête politique et catastrophe humanitaire*, Les rapports du GRIP 2017/10, 6 December 2017, <http://www.grip.org/fr/node/2462>

² Amnesty International, "Yemen: Saudi Arabia-led coalition uses banned Brazilian cluster munitions on residential areas", 9 March 2017, <https://www.amnesty.org/en/latest/news/2017/03/yemen-saudi-arabia-led-coalition-uses-banned-brazilian-cluster-munitions-on-residential-areas/> - Kristine Beckerle, "US Officials Risk Complicity in War Crimes in Yemen", Human Rights Watch, 4 May 2017, <https://www.hrw.org/news/2017/05/04/us-officials-risk-complicity-war-crimes-yemen>

³ Human Rights Watch, "Yemen: Houthi-Saleh Forces Using Landmines", 20 April 2017, <https://www.hrw.org/news/2017/04/20/yemen-houthi-saleh-forces-using-landmines>

⁴ Léo Géhin, *Conseil de Coopération du Golfe. Une politique de puissance en trompe l'œil*, Les rapports du GRIP 2016/1, pp. 27-28.

⁵ Kristine Beckerle, "US Officials Risk Complicity in War Crimes in Yemen", Human Rights Watch, 4 May 2017, <https://www.hrw.org/news/2017/05/04/us-officials-risk-complicity-war-crimes-yemen>

⁶ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *Yemen*, <http://www.unocha.org/yemen> - United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *About OCHA Yemen*, <http://www.unocha.org/yemen/about-ocha-yemen>

⁷ World Food Programme (WFP), *Yemen*, <http://www1.wfp.org/countries/yemen>

⁸ Aude Fleurant et al., *Trends in International Arms Transfers 2016*, SIFRI Fact Sheet, February 2017.

⁹ "L'administration Obama championne des ventes d'armes dans le monde" in *RTS*, 5 January 2017, <https://www.rts.ch/info/sciences-tech/reperages-web/8286250-l-administration-obama-championne-des-ventes-d-armes-dans-le-monde.html>

¹⁰ "Les USA et l'Arabie saoudite ont signé des accords pour plus de 380 milliards de dollars", in *Le Soir*, 20 May 2017, <http://plus.lesoir.be/94892/article/2017-05-20/les-usa-et-l-arabie-saoudite-ont-signe-des-accords-pour-plus-de-380-milliards-de>

¹¹ CAAT, EU Arms Exports database.

arms and ammunition¹². Belgium meets two thirds of the Saudi requirement for these types of weapons¹³. The Saudi Arabian share of the total value of arms export licences from Wallonia rose from 23% for the period 2007-2011 to over 37% for the period 2012-16¹⁴. In 2015, 60% of licences granted in Wallonia were for export to Saudi Arabia, for a total sum of €575.8 million¹⁵. In 2014, Cockerill Maintenance & Ingénierie (CMI) also signed a one-off contract worth €3.2 million with General Dynamics Canada for turrets and guns to be used in light armoured vehicles destined for Saudi Arabia¹⁶. According to Human Rights Watch, Saudi Arabia used armoured vehicles to destroy the historic town of Awamiyah in eastern Saudi Arabia, violating human rights, according to the United Nations¹⁷. Flemish weapons technology, on the other hand, is likely being used in military equipment deployed in the conflict in Yemen. Indeed Flemish radar devices have been built into Eurofighter Typhoons combat aircrafts which are currently being deployed by Saudi Arabia in Yemen¹⁸.

07. In March 2017, the Minister of Development Cooperation, Alexander De Croo, proposed that an embargo be imposed on arms sales to Saudi Arabia on humanitarian grounds, arguing that “we cannot try to save human lives and, at the same time, supply weapons”¹⁹. Since then, a resolution in the Belgian parliament, adopted on 8 June 2017, called on federal governments to work with the federated entities to put an end to arms sales to Saudi Arabia, considering the “systematic human rights violations” and “a total disregard for human life” in Yemen²⁰.

3. Recommendations

08. **At the international level:** Encourage the imposition of a United Nations embargo, on humanitarian grounds, on the sale of arms and dual-use items to Saudi Arabia and other countries involved in the conflict in Yemen, in accordance with international law. Belgium could use its upcoming term as a non-permanent member of the UN Security Council to promote this

¹² Four categories of weapons and military equipment make up the vast majority of Walloon exports when it comes to defence. Small-calibre firearms made up 42% of all export licences granted between 2008 and 2016¹². The next major arms exports from Wallonia are components and parts for tanks and armoured vehicles (16 %), ammunition and components for small arms and light weapons (15 %) and components and parts for military planes (11 %). Source: Christophe Stiernon and Hélène Voisin, “Les transferts d’armements de la région wallonne en 2016: Synthèse du rapport annuel”, GRIP, 21 August 2017, http://www.grip.org/sites/grip.org/files/BREVES/2017/EC_2017-08-21_FR_C-STIERNON.pdf.

¹³ European network against arms trade (ENAAAT), <http://www.enaat.org/export/licence.fr.html?rating=ML%201&destination=Saudi%20Arabia>

¹⁴ Christophe Stiernon and Hélène Voisin, *op. cit.*, p. 4.

¹⁵ “Armes wallonnes: l’Arabie saoudite représente 60% du chiffre d’affaires”, in *RTBF*, 20 September 2016, https://www.rtbf.be/info/belgique/detail_60-des-ventes-d-armes-wallonnes-destinees-a-l-arabie-saoudite-en-2015?id=9408887

¹⁶ Flemish Peace Institute – Vlaams Vredesinstituut, p. 55, http://www.flemishpeaceinstitute.eu/sites/vlaamsvredesinstituut.eu/files/files/htp/rapport_wapenexp_eur_def_0.pdf

¹⁷ United Nations office of the high commissioner for Human rights (OHCHR), “Saudi Arabia’s use of force and demolitions in the Al-Masora neighborhood violates human rights”, 24 May 2017, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21657&LangID=E> – Human Rights Watch, “Saudi Arabia: Security Forces Seal Off Eastern Town”, 13 August 2017, <https://www.hrw.org/news/2017/08/13/saudi-arabia-security-forces-seal-eastern-town>

¹⁸ Nils Duquet, “Van Vlaamse Makelij: Het eindgebruik van Vlaams militair materiaal”, December 2011.

¹⁹ “Alexander De Croo relance le débat des livraisons d’armes à l’Arabie saoudite”, in *RTBF*, 26 March 2017, https://www.rtbf.be/info/belgique/detail_alexander-de-croo-appelle-a-un-embargo-sur-les-armes-contre-l-arabie-saoudite?id=9564613

²⁰ The Belgian Chamber of Representatives, “Resolution to reconsider Belgian foreign policy with regard to the Kingdom of Saudi Arabia”, 8 June 2017.

humanitarian embargo.

09. At the European level:

- Encourage the imposition of a European Union embargo on the sale of arms and dual-use items to Saudi Arabia and other countries involved in the conflict in Yemen, in accordance with European Parliament resolutions.
- Ensure the exchange of information between competent authorities in different Member States of the European Union with regard to the re-export of weapons and controlling the end-use of weapons sold.
- Within the framework of the planned reform of the Common Position on arms exports (2008/944/PESC), encourage strengthening of the legal applicability of the Common Position.

10. At the Belgian federal level:

- While the embargo is ongoing, suspend export insurance services provided by Credendo Group for sales of arms and dual-use items to Saudi Arabia²¹.
- Strengthen cooperation between the governments of the Belgian federal state and the federal entities with the aim of reaching a common position at the Belgian level and ensuring coherence between the arms trade and the Sustainable Development Goals.

11. At the level of the federal entities:

- Impose an embargo on humanitarian grounds on the sale of arms and dual-use items to Saudi Arabia and other countries involved in the conflict in Yemen, in accordance with the terms of the decrees of the regions of Wallonia and Flanders.
- Ensure more rapid and transparent control of arms exports under licence, improving transparency in the decision-making process for granting arms licences and the regularity and prompt submission of reports to parliament in order to ensure that these decisions respect existing regulations.
- Establish a mechanism for controlling the end-use and end-user of arms exported by the regions, as exists in Germany, including for components.
- Implement a plan for economic diversification within the weapons sector, with participation from social partners, in order to eventually reconcile the goal of maintaining job creation and that of coherent policies promoting sustainable development.

4. Justification of the recommendations

12. For the year 2014, leaving aside France which changed its system for granting licenses in 2017 and where the number of licences far exceeds actual exports, Belgium is the biggest exporter of light weapons and small arms in the European Union. A large proportion of these weapons is produced by companies in Wallonia: Fabrique Nationale (light weapons and ammunition), Browning International (light weapons for hunting and sport) and Forges de Zeebrugge (air-to-surface missiles and rocket systems), all of which are located in Herstal, and Mecar (medium-calibre ammunition, mortars and

²¹ As stipulated in article 4 of the “Resolution to reconsider Belgian foreign policy with regard to the Kingdom of Saudi Arabia” from the Belgian Chamber of Representatives, adopted on 8 June 2017.

grenades) located in Seneffe²². These companies create 3 572 direct jobs and almost 10 000 indirect jobs in Wallonia²³. Flanders produces weapons technology, which is likely to be incorporated into military equipment used within the conflict in Yemen.

13. Arms exports outside of the EU are governed by the 2008 Common Position (2008/944/PESC)²⁴, transposed into the Walloon Decree of 21 June 2012 relating to the import, export, transit and transfer of civilian weapons and products linked to defence²⁵. According to these two texts, violations of international humanitarian law by Saudi Arabia through its involvement in the conflict in Yemen could lead to a ban on exports if the weapons concerned are liable to contribute to these violations (Criterion 2, Article 2,2, c of the Common Position).

14. The Arms Trade Treaty, which entered into force in 2014, stipulates that a country should refuse to export arms if it has knowledge that they will be used to commit serious violations of international humanitarian law or human rights (Article 7§1 of the ATT)²⁶.

15. Another criterion that can lead to a ban on arms exports is *“the existence of a risk that the military technology or equipment will be diverted within the buyer country or re-exported under undesirable conditions”* (Criterion 7). This raises the difficult question of controlling the end-use of a weapon. It has been demonstrated that Saudi Arabia was involved in a certain number of cases of arms diversions to rebel groups in Syria²⁷. In order to improve practices among Member States in terms of controlling the end-use of arms, in 2009 the EU developed a user’s guide including clarification of criterion seven of the Common Position. Updated in 2015, this guide encourages, for example, post-dispatch verification as well as information exchange between competent authorities in the different Member States²⁸.

16. On 25 February 2016, the European Parliament adopted a resolution concerning the situation in Yemen, calling on Federica Mogherini *“to launch an initiative aimed at imposing an EU arms embargo against Saudi Arabia”* given the severity of the violations of international humanitarian law²⁹. The European Parliament has subsequently adopted two further resolutions reiterating this appeal, on 13 September 2017³⁰ and 30 November 2017³¹.

²² Christophe Stiennon, “Armes légères et de petit calibre: chiffres, enjeux, tendances”, GRIP, 23 November 2016, <http://www.grip.org/fr/node/2147>

²³ Number of direct jobs in 2015. Source : GRIP, <http://www.grip.org/sites/grip.org/files/DATA-BASE/BE/ENTREPRISES/Tableau2.pdf>

²⁴ Official Journal of the European Union, *Council Common Position 2008/944/PESC of 8 December 2008 defining common rules governing control of exports of military technology and equipment*, L335/99, 13 December 2008, <https://eur-lex.europa.eu/legal-content/NL/TXT/?uri=CELEX:32008E0944>

²⁵ Service public de Wallonie, *Décret relatif à l'importation, à l'exportation, au transit et au transfert d'armes civiles et de produits liés à la défense*, 5 July 2012, http://economie.wallonie.be/Licences_armes/News/DECRET%2021%20JUN%202012.pdf

²⁶ United Nations Organisation, *The Arms Trade Treaty*, <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

²⁷ Denis Jacqmin and Christophe Stiennon, “Faut-il arrêter de vendre des armes à l’Arabie saoudite? ”, GRIP, 20 September 2017, <http://www.grip.org/fr/node/242>

²⁸ An Vranckx, *Contrôle de l'utilisation finale des armes. Pratiques et perspectives*, Les rapports du GRIP 2016/4, pp. 30-21.

²⁹ European Parliament, *European Parliament Resolution of 25 February 2016 on the humanitarian situation in Yemen*, 2016/2515(RSP), 25 February 2016, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0066+0+DOC+XML+V0//EN>

³⁰ European Parliament, *European Parliament Resolution of 13 September 2017 on arms export: implementation of Common Position 2008/944/CFSP*, 13 September 2017, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2017-0344+0+DOC+XML+V0//EN>

³¹ European Parliament, *European Parliament Resolution of 30 November 2017 on the situation in Yemen 2017/2849(RSP)*,

17. In Europe, Sweden and Norway have decided to impose an embargo on arms sales to Saudi Arabia on humanitarian grounds, and the new German government has decided to immediately halt all arms exports to countries involved in the conflict in Yemen³².

18. When questioned by the Walloon Parliament on 19 January 2018, the Minister-President of Wallonia, Willy Borsus, stated that “Wallonia ceased to grant licences to the Saudi Arabian Ministry of Defence in 2017”, limiting exports to “the state’s National Guard and Royal Guard”, two units that are “in no way intended to carry out military operations outside of Saudi Arabia”. Consequently, the Minister-President judged that it was “not appropriate to stop issuing export licences for arms going to Saudi Arabia, as we are respecting all legal provisions in force and taking care to ensure that we are not supplying the Ministry of Defence, which is involved in the theatre of operations in Yemen”³³. However, according to Amnesty International, “Saudi Arabia is known to illegally and unscrupulously re-export arms to other states. It is a strong possibility that Belgian weapons can be found on battlefields in Yemen or elsewhere. Numerous documents indicate that Saudi Arabia has re-exported arms to Syria that it bought from various countries in Europe, Central Asia and the USA. The National Guard is deployed in great number on the Yemeni border, and it is highly likely that they make incursions into Yemen. In 2011, this unit spearheaded the repression in Bahrain”³⁴. Furthermore, in practice, Walloon administration currently does not have the capacity to ensure control over the use or end-use of exported arms.

19. There is no guarantee of traceability on weapons technology produced in Flanders. This implies that Belgium is not able to ensure that these technologies will not be used in conflicts like that in Yemen. That is why, following the example set by Germany, Belgium should ensure it has means for guaranteeing control of the end-use of exported arms and technological weapons components.

The Advisory Council on Policy Coherence for Development was established in April 2014. It is governed by the Royal Decree of 2 April 2014, in application of the Law of 19 March 2013 with regard to the Belgian development cooperation (articles 2, 16°, 8, 31 and 35,2°). This Advisory Council’s primary mission is to provide advice to the Belgian federal authorities in order to promote Policy Coherence for Development in accordance with Article 208 of the Treaty on the Functioning of the European Union and Article 8 of the legislation initiated on March 19, 2013, related to Belgian Development Cooperation.

To know more about the Advisory Council and to read more opinions in English, Dutch and French, please visit the website: <http://www.ccpd-abco.be/>

30 November 2017,

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2017-0473+0+DOC+XML+V0//EN>

³² “Germany halts weapons exports to parties in Yemen conflict”, in *DW*, 19 January 2018,

<http://www.dw.com/en/germany-halts-weapons-exports-to-parties-in-yemen-conflict/a-42229376>

³³ “Borsus: “Les armes wallonnes pour l’Arabie saoudite ne sont plus destinées à des opérations militaires hors du pays”, in *RTBF*, 19 January 2018, https://www.rtbef.be/info/belgique/detail_borsus-les-armes-wallonnes-pour-l-arabie-saoudite-ne-sont-plus-destinees-a-des-operations-militaires-hors-du-pays?id=9815845

³⁴ Philippe Hensmans, “M. Borsus applique le droit wallon quand ça l’arrange”, Amnesty International, 19 January 2018, <https://www.amnesty.be/infos/nos-blogs/le-blog-de-philippe-hensmans/article/m-borsus-applique-le-droit-wallon-quand-ca-l-arrange>

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Betreft: Advies Abco over "De verkoop van wapens aan Saoedi-Arabië"

Geachte heer Maes,

Ik dank de Adviesraad voor hun advies over de moeilijke problematiek van wapenuitvoer naar Saoedi-Arabië en de aanbevelingen die de raad heeft geformuleerd. Over de aanbevelingen gericht aan de gefedereerde entiteiten kan ik u voor Vlaanderen alvast het volgende meegeven.

Eerst en vooral toont de Vlaamse praktijk dat vanuit het Vlaamse Gewest geen goederen die inzetbaar zijn in gewapende conflicten worden uitgevoerd naar Saoedi-Arabië, noch naar andere landen die betrokken zijn in het conflict in Jemen. We vermijden daar het risico dat Vlaamse goederen zouden bijdragen tot schendingen van mensenrechten en het humanitair recht.

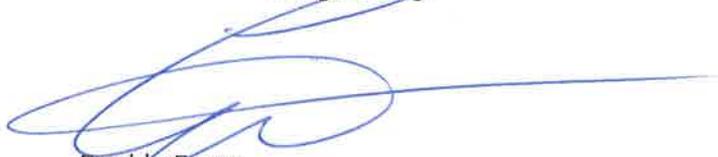
Over transparantie wil ik u ook meegeven dat Vlaanderen nu al maandelijks rapporteert over *elke* toegekende en geweigerde vergunning voor zowel defensiegerelateerde producten als producten voor tweërlei gebruik afzonderlijk, via een verslag op de website van het Departement Buitenlandse Zaken (<http://www.fdfa.be/nl/maand-en-jaarverslagen>). Samen met deze verslagen worden, wanneer nodig, toelichtingsnota's gepubliceerd die specifieke vergunningen nog verder verduidelijken. Deze maandverslagen zijn bijkomend aan het jaarverslag en het halfjaarlijks

verslag over de toepassing van het Wapenhandeldecreet aan het Vlaams Parlement.

De controle op het eindgebruik, vervolgens, is in Vlaanderen via een reeks van verplichtingen verankerd in het Wapenhandeldecreet en het Wapenhandelbesluit en vorig jaar nog geoptimaliseerd. Deze verplichtingen worden toegepast rekening houdend met de aard van de goederen en de eindgebruiker, en met de juridische verplichtingen van Vlaanderen onder Europese regelgeving.

Wat betreft de coherentie van wapenuitvoer met de Doelstellingen voor Duurzame Ontwikkeling wijs ik er tot slot nog op dat dit sinds vorig jaar een belangrijk aandachtspunt is binnen de Conferentie van de Staten die Partij zijn bij het VN-Wapenhandelsverdrag. Onder meer tijdens de derde bijeenkomst van de Conferentie in september 2017 heeft België, met substantiële Vlaamse inbreng, hierover een krachtige verklaring afgelegd en andere Partijstaten opgeroepen om geen wapentransfers toe te staan die de ontwikkelingsdoelstellingen zouden kunnen ondermijnen, in verwijzing naar zowel specifieke doelstellingen en targets, als naar duidelijke verplichtingen in het Wapenhandelsverdrag (http://thearmstradetreaty.org/images/CSP3_Documents/Statements/Belgium_ATT_SDGs_CSP_3_12092017.pdf).

Met de meeste hoogachting,



Freddy Evens
Secretaris-generaal a.i.