

# Arms, Human Rights and Geopolitical Interest: Reflections on Italian Defence Exports

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E S S A Y P R I Z E

Italy is typically defined as a middle power, a follower of more powerful countries, namely the United States, rather than a leader or unilateral actor in foreign policy.<sup>1</sup> This staunch Atlanticism as well as active support for the European Union and United Nations prompted Italian participation in numerous international military and peacekeeping missions abroad under the aegis of the UN, NATO, EU or ad hoc “coalitions of the willing”.

<sup>1</sup> Andrea Carati and Andrea Locatelli, “Cui prodest? Italy’s Questionable Involvement in Multilateral Military Operations Amid Ethical Concerns and National Interest”, in *International Peacekeeping*, Vol. 24, No. 1 (2017), p. 86-107.

Since the Cold War, Italian military engagements have expanded in scope and geographic location. Together with allies, Italian troops have participated or are presently on the ground in a variety of contexts, from Lebanon in the early 1980s to the First Gulf War, Kosovo, Bosnia, Somalia, Afghanistan, Iraq, Niger and Libya, amongst others.

With the Iraqi invasion of Kuwait and the disintegration of Yugoslavia in the 1990s, Italy began to more actively develop its military capabilities. Indeed, massive migrations from the Balkans and the precarious equilibrium of the Middle East required more robust handling of foreign policy dossiers and

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challenges.<sup>2</sup>

Thus, amidst the changing international environment of the post-Cold War era, Italy moved from being a “consumer of security” to a “producer of security”.<sup>3</sup> This transition reshaped the Italian defence industry and with it the national legislative framework governing the trade and export of military equipment.

### *The legislative framework: An appraisal*

A first point to emphasise with regards to Italy’s approach to defence and military exports is Article 11 of the Italian Constitution which states that Italy firmly “rejects war as an instrument of aggression against the freedom of other peoples and as a means for the settlement of international disputes. Italy agrees, on conditions of equality with other States, to the limitations of sovereignty that may be necessary to a world order ensuring peace and justice among the Nations. Italy shall promote and encourage international organisations furthering such ends.”<sup>4</sup>

In line with the Constitution, Italy places much emphasis on prior UN Security Council approval for participation in international military missions abroad. Over the years Italy has received broad

recognition as a major provider of peacekeeping forces to UN, EU and other international missions.

With regards to defence exports, Italy has aligned with key international treaties, including the 2013 Arms Trade Treaty, which provides for international standards on arms exports.<sup>5</sup> On top of this, Italy fully recognises EU legislation that denies weapon licenses to countries with ascertained connections to war crimes, crimes against humanity and breaches of general international law.<sup>6</sup> Concurrently, Italian national legislation provides similar guidelines, regulating defence trade and guaranteeing the transparency of all transactions. Notably, Law 185/90 establishes state control over the import, export, transit and production licenses of military equipment.<sup>7</sup>

The law also defines instances where export is illegal, that is when recipient countries are involved in unlawful conflicts according to Article 51 of the UN Charter; those whose policies are in contrast with Article 11 of the Italian

<sup>2</sup> James Walston, “Italian Foreign Policy in the ‘Second Republic’. Changes of Form and Substance”, in *Modern Italy*, Vol. 12, No. 1 (February 2007), p. 91-104.

<sup>3</sup> Ibid.

<sup>4</sup> The Constitution of the Italian Republic, 1 January 1948, [https://www.cortecostituzionale.it/documenti/download/pdf/The\\_Constitution\\_of\\_the\\_Italian\\_Republic.pdf](https://www.cortecostituzionale.it/documenti/download/pdf/The_Constitution_of_the_Italian_Republic.pdf).

<sup>5</sup> Arms Trade Treaty, adopted by the United Nations General Assembly on 2 April 2013 and entered into force on 24 December 2014, <https://www.thearmstradetreaty.org/treaty-text.html>.

<sup>6</sup> Council of the EU, *Council Common Position 2008/944/CFSP of 8 December 2008 Defining Common Rules Governing Control of Exports of Military Technology and Equipment*, <https://eur-lex.europa.eu/eli/compos/2008/944/oj>. For a review see Mark Bromley, “The Review of the EU Common Position on Arms Exports: Prospects for Strengthened Controls”, in *Non-proliferation Papers*, No. 7 (January 2012), <https://www.sipri.org/node/3260>.

<sup>7</sup> Law No. 185 of 9 July 1990: *New Provisions on Controlling the Export, Import and Transit of Military Goods*, [https://www.esteri.it/mae/resource/doc/2017/06/legge\\_09\\_07\\_1990\\_n185.pdf](https://www.esteri.it/mae/resource/doc/2017/06/legge_09_07_1990_n185.pdf).

Constitution; states sanctioned by the UN, the EU or other international bodies; countries responsible for gross human rights violations; and countries abusing Italian aid to unnecessarily increase their military budget. The foreign and defence ministries are ultimately entitled to set conditions, limit or prohibit contractual negotiations, even in the context of NATO, EU or other intergovernmental agreements.<sup>8</sup>

The law also requires the Italian government to deliver an annual report concerning all authorised military transactions (type of military equipment, quantity, monetary value, etc.) to parliament. Such practices were further updated in a 2012 review of Law 185/90, which also recognised new European directives on the matter of arms exports.<sup>9</sup>

This Italian alignment with European and international standards on defence exports is mirrored by the legislative frameworks adopted by other EU states and allies. At the same time, civil society and international watchdogs have long criticised national and international legislation as insufficient to ensure transparency over such trade, pointing at loopholes and a lack of clarity in end-of-year reporting, as well as weak safeguards on end-user destinations and export licenses.<sup>10</sup>

<sup>8</sup> Ibid.

<sup>9</sup> See, European Parliament and Council of the EU, *Directive 2009/43/EC of 6 May 2009 Simplifying Terms and Conditions of Transfers of Defence-Related Products within the Community*, <http://data.europa.eu/eli/dir/2009/43/oj>.

<sup>10</sup> For the EU arms market, see the website of

While states understandably protect their commercial interests, more oversight of the dealings of private arms manufacturers, as well as the sale of dual use technologies that are less scrutinised by existing legislation, should be strengthened.<sup>11</sup>

In this regard a number of international monitoring and tacking initiatives have been launched at the EU and international levels. One example is the EUarms website, developed by Lighthouse Reports and the Global Legal Action Network, which examines EU arms deliveries and the challenges of ensuring end-user accountability over their use.<sup>12</sup>

Another example is Transparency International's Government Defence Integrity Index, which calculates risks of corruption, undue influence and oversight challenges in the defence industry. The 2020 report gives Italy a

the project EUarms: <https://www.euarms.com>; on Italy see, Christiaan Triebert, "Tracking Italy's Arms Trade (#ItalianArms)", in *Bellingcat*, 16 December 2018, <https://www.bellingcat.com/news/2018/12/16/tracking-italys-arms-trade-italianarms>; and Lighthouse Reports, "Italian Arms Serving Dictators", in *Lighthouse Investigations*, 16 December 2018, <https://www.lighthouseinvestigations.nl/?p=222>.

<sup>11</sup> The example of the private Italian technology firm Hacking Team, which provided spyware technologies to numerous regimes, is worthy of mention. See David Kushner, "Fear This Man", in *Foreign Policy*, 26 April 2016, <https://foreignpolicy.com/2016/04/26/fear-this-man-cyber-warfare-hacking-team-david-vincenzetti>. Also refer to a 2017 investigative documentary by Al Jazeera which implicated Italian companies in the sale of restricted spyware equipment abroad. See Al Jazeera's Investigative Unit, *Spy Merchants*, 10 April 2017, [https://youtu.be/\\_HA-cEMKCDs](https://youtu.be/_HA-cEMKCDs).

<sup>12</sup> See the website of the project EUarms: <https://www.euarms.com>.

"C" grade for "moderate risk" in these sectors (like France, Spain and the United States, but lower than Germany's "B" grade). Moreover, while highlighting some recent improvements, the report notes that "Parliamentary oversight remains relatively poor and [...] defence procurement is highly secretive and vulnerable to the influence of powerful industry actors, while anti-corruption standards on operations are extremely poor".<sup>13</sup>

### *Italian arms exports*

Recent data shows how Italy was ranked 10th place in the world for arms exports between 2016 and 2020, with top recipients being Turkey, Egypt and Pakistan.<sup>14</sup>

In 2020, revenue from Italian arms exports reached a new high of almost 4 billion euro, with the top recipients being Egypt, the US and United Kingdom. Among recipients that year, a slight majority (56 per cent) were destined to non-EU or NATO countries,<sup>15</sup> confirming a trend in place since 2016 by which Italian exports have increasingly been directed to

states and regions that lay beyond Italy's traditional alliance frameworks, particularly in the Middle East and North Africa.

In line with the above, many have recently questioned whether Italy's arms deals negotiated with countries such as the UAE and Saudi Arabia, both currently involved in offensive military operations deemed of questionable legality, fits within Italian and European legislative frameworks that are supposed to limit such sales.<sup>16</sup>

In 2019, Saudi Arabia and the UAE ranked in 10th and 11th place respectively as top recipients of Italian arms. Then in July 2019, the Conte II government announced a suspension of arms sales to both countries over concern that such armaments were being used in Yemen in an indiscriminate manner with large civilian casualties.<sup>17</sup>

The decision was confirmed in January 2021, with the Italian foreign minister stating that "for us, respect for human rights is an unbreakable commitment".<sup>18</sup> Predictably, both Saudi Arabia and the Emirates protested against the decision, while Italian defense manufacturers also expressed concern over their

<sup>13</sup> Matthew Steadman, "Italy Country Brief", in *Government Defence Integrity Index 2020*, p. 2, <https://ti-defence.org/gdi/countries/italy>. Also see, Transparency International, *Defence Industry Influence in Italy. Analysing Defence Industry Influence on the Italian Policy Agenda*, March 2021, <https://ti-defence.org/?p=5015>.

<sup>14</sup> Pieter D. Wezeman, Alexandra Kuimova and Siemon T. Wezeman, "Trends in International Arms Transfers 2020", in *SIPRI Fact Sheets*, March 2021, p. 2, <https://www.sipri.org/node/5350>.

<sup>15</sup> Rete Italiana Pace e Disarmo, *Italian Arms Exports: Almost 4 Billion Authorised in 2020, Egypt the Leading Buyer*, 28 April 2020, <https://retepacedisarmo.org/english/?p=180>.

<sup>16</sup> Giorgio Beretta, "Armi italiane: la metà dell'export va in Nord Africa e Medio Oriente", in *Osservatorio Diritti*, 6 May 2021, <https://www.osservatoriodiritti.it/?p=32529>; Italian Government, *Relazione sulle operazioni autorizzate e svolte per il controllo dell'esportazione, importazione e transito dei materiali di armamento, relativa all'anno 2020*, 7 April 2021, p. 3, <https://www.senato.it/leg/18/BGT/Schede/docnonleg/42351.htm>.

<sup>17</sup> "Italy Permanently Halts Arms Sales to Saudi Arabia, UAE", in *Al Jazeera*, 29 January 2021, <https://aje.io/xbdhr>.

<sup>18</sup> Ibid.



loss of revenue. Despite positive reactions from several humanitarian associations,<sup>19</sup> by July 2021 Italy began to backtrack on these restrictions, not least given that other European states showed no similar intentions to limit such security cooperation.<sup>20</sup>

Beyond Saudi Arabia and the Emirates, Italian arms sales to Egypt are also a source of significant domestic debate. This is due to Cairo's poor human rights record, the torture and murder of Italian researcher Giulio Regeni, the incarceration of University of Bologna student Patrick Zaki and Egypt's troublesome policies in Libya.

In 2020, news emerged of a major arms deal with Cairo, approved amidst public outcry for Egypt's refusal to cooperate with Italian investigators on the Regeni murder and Egypt's repeated violations of the UN arms embargo on Libya.<sup>21</sup> A key component of the sale was two FREMM frigates, originally destined for the Italian Navy, and valued at 1.2 billion euro.<sup>22</sup> Criticised by Italian

<sup>19</sup> Marzia Minore, "La legge 185 sull'export di armi è sotto attacco. Un appello per difenderla", in *Altreconomia*, 19 May 2021, <https://altreconomia.it/?p=137214>.

<sup>20</sup> Angelo Amante, "Italy Eases Curbs on Arms Sales to Saudi Arabia and UAE", in *Reuters*, 6 July 2021, <https://reut.rs/3hj3RHb>.

<sup>21</sup> Amnesty International, *#StopArmiEgitto: si apra quanto prima un dibattito trasparente in Parlamento*, 12 June 2020, <https://www.amnesty.it/stoparmiegitto-si-apra-quanto-prima-un-dibattito-trasparente-in-parlamento-sulla-vendita-di-due-fregate-militari>; Virginia Pietromarchi, "Pressure on Italy to Scrap Planned Arms Deal with Egypt", in *Al Jazeera*, 17 June 2020, <https://aje.io/dwtwn>.

<sup>22</sup> Carlo Tecce, "Così l'Italia ha venduto due navi da guerra all'Egitto nel silenzio di agosto. Perdendo soldi", in *L'Espresso*, 30 September 2020.

civil society, the sale fits into growing popular concern about evolving relations with the Al-Sisi regime in Egypt, but also against the backdrop of extensive Italian commercial and energy interests in Egypt and the Eastern Mediterranean.

It is also worth recalling how EU states had agreed to suspend export licenses to Cairo for materials that could be used for domestic repression and review other sales, in the wake of the massacre of Egyptian protesters in the context of the 2013 military coup.<sup>23</sup> Yet, twelve EU states, including Italy, effectively reneged on this commitment already in 2014, independently from the continued human rights abuses in the country.<sup>24</sup>

### *Improving oversight and accountability*

Many recipients of Italian defence exports – including those states outlined above – have been implicated in human rights abuses, repression and at times offensive unilateral conflicts. Yet, arms sales continue, given that no formal embargo on these countries has been put in place and existing legislation still provides for the legality of such exports. This in turn highlights the hardship in governing

<sup>23</sup> See, Council of the European Union, *Council Conclusions on Egypt*, 21 August 2013, [https://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/138599.pdf](https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/138599.pdf); Amnesty International, *Egypt: How French Arms Were Used to Crush Dissent*, 16 October 2018, <https://www.amnesty.org/en/documents/eur21/9038/2018/en>.

<sup>24</sup> Amnesty International, *EU: Halt Arms Transfers to Egypt to Stop Fuelling Killings and Torture*, 25 May 2016, <http://amn.st/6018BqRX8>.

the international arms market and in strengthening oversight over the sale of military equipment abroad, particularly given that once this material is delivered it is extremely hard to determine its effective use or even re-export.<sup>25</sup>

Aside from moral implications, a more practical consideration is that in the absence of strong institutions, political accountability and checks and balances within recipient countries, such sales can easily end up fuelling more conflict rather than promote stability as is often claimed. As a result, Italy and other European states should carefully consider the costs and benefits of such trade, particularly when this is directed towards regions already rife with political and security challenges and where weapons are already abundantly present. It is indeed for this reason that concern has been raised recently about the increased sales to non-EU or NATO countries by Italy and other European countries.

It will ultimately be impossible to ensure complete oversight and accountability over the global arms trade. Yet, this should not translate into complacency. States and international organisations still have a responsibility to strengthen reporting standards, rules and regulations. If Europe is serious about its support for the rules based on international order and human rights, it must make these policies visible also in the domain of defence exports and security cooperation.

<sup>25</sup> See the website of the project EUarms: *Track and Trace*, <https://www.euarms.com>.

At the end of the day, only closer coordination among EU member states, civil society and the media can hope to shine a light on global arms exports, helping to provide a degree of accountability and oversight, at least over the EU market and European arms manufacturers. An effort to standardise end-of-year reporting on national arms exports among EU states could help improve these objectives.

In this domain, one can note that Italy has recently approved a legal provision on the possibility to stipulate government-to-government (G2G) agreements on defence exports, which allows the Italian executive to directly negotiate deals, rather than leaving this activity to companies or other intermediaries.<sup>26</sup> This approach will hopefully enhance transparency and political accountability, as it grants the government considerable influence over the negotiation of defence contracts and exports.<sup>27</sup>

While no doubt positive, more will be needed to make sure that governments and defence companies are held accountable to the public and that the promise of economic revenue or political influence does not lead actors to circumvent political commitments. In this regard, the role of parliamentary oversight is fundamental, as is the

<sup>26</sup> Gregorio Piccin, "Anche in Italia ora le armi le vende direttamente il ministero", in *Il manifesto*, 20 November 2019, <https://ilmanifesto.it/?p=403803>.

<sup>27</sup> Gianluca Di Feo, "Armi, la rivoluzione dell'export italiano. Il primo accordo con la Slovenia", in *La Repubblica*, 18 November 2021, [https://www.repubblica.it/politica/2021/11/18/news/armi\\_la\\_rivoluzione\\_dell\\_export\\_italiano-326856037](https://www.repubblica.it/politica/2021/11/18/news/armi_la_rivoluzione_dell_export_italiano-326856037).

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advocacy and monitoring role of civil society and human rights organisations whose work serves as further checks and balances over the defence sector, helping to inform the public and ensure that governments and ministries fulfil their duties under both Italian, European and international law.

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