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# COMMISSION NOTICE

## on the application of the sustainable finance framework and the Corporate Sustainability Due Diligence Directive to the defence sector

## Contents

## 1 Introduction

(1) This Commission Notice ('the Notice') aims to provide guidance on the applicability of the EU sustainable finance framework to the defence industry.

(2) Sustainable finance refers to the process of taking environmental, social and governance (ESG) considerations into account when making investment decisions in the financial sector, facilitating a better appreciation of sustainability-related risks and more investments in sustainable economic activities and projects.

(3) The Notice is intended to help market operators ensure compliance with the requirements of the EU sustainable finance framework in relation to the defence industry. Its aim is to help prevent any undue discrimination of the sector in investment decisions, and ensure a better understanding and recognition of the sector's potential to contribute to social sustainability, in line with the objectives of the European defence industrial strategy[1] and the Joint White Paper for European Defence Readiness 2030[2].

(4) The Notice clarifies that the EU sustainable finance framework is compatible with investing in the defence sector, and that sustainability disclosures apply horizontally across all industries. The Commission recalls that the framework sets no limitations on the financing of any sector, including the defence sector, and encourages defence sector investments, like those in any other sector, to be assessed on a case-by-case basis.

(5) The Notice is intended for all investors and operators referred to in the EU sustainable finance framework, as well as public authorities and bodies. The Notice will be particularly relevant for:

- financial market participants;
- ESG rating providers, meaning a legal person that issues ESG ratings or scores on a professional basis[3];
- providers of ESG labels (ecolabels, national labels etc.);
- stock exchanges/index providers, benchmark providers, data vendors/certification bodies, etc.

(6) The Notice covers the texts constituting the EU sustainable finance framework, in particular:

- Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial services sector (SFDR)[4];
- Delegated Regulation (EU) 2017/565 and Delegated Directive (EU) 2017/593 supplementing Directive 2014/65/EU on markets in financial instruments (MIFID II)[5];

[1] European Defence Industrial Strategy
[2] JOIN (2025) 120 final
[3] COM/2023/314 final - 2023/0177(COD)
[4] OJ L 317, 9.12.2019, p. 1–16; EUR-Lex Link
[5] OJ L 173, 12.6.2014, p. 349–496; EUR-Lex Link

- Regulation (EU) 2020/852 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 ('the EU Taxonomy')[6];
- Directive (EU) 2022/2464 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting (CSRD)[7];
- Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds, and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (BMR)[8].
- Directive 2024/1760/EU of the European Parliament and of the Council on corporate sustainability due diligence and amending Directive 2019/1937/EU and Regulation (EU) 2023/2859 (CSDDD)[9];

# 2 Investing in the defence industry – a contribution to EU resilience and security

## 2.1 The defence industry contributing to broader EU and UN objectives

(1) With regard to sustainability, the policy goals of the European Union and the United Nations ('UN') are strongly aligned. The UN Sustainable Development Goals[10] are directly cited as an objective of the European Climate Law[11], the legal foundation of the EU's Green Deal. The European Climate Law codifies the EU's objective of climate neutrality by 2050, and states in its Recital 4 that this 'fixed long-term objective is crucial to contribute to economic and societal transformation, high-quality jobs, sustainable growth, and the achievement of the United Nations Sustainable Development Goals'.

(2) UN texts also recognise that freedom, prosperity, and justice are impossible without security or under military occupation by a foreign aggressor. The Universal Declaration of Human Rights[12] affirms in Article 3 that 'Everyone has the right to life, liberty and the security of person', and in Article 28 that 'Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised'. Article 51 of the UN Charter enshrines the right to (collective) self-defence: 'Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security'[13].

(3) Russia's unjustified and unprovoked war of aggression against Ukraine has made clear that to safeguard these universal rights in the Union and beyond, the Union must strengthen and further develop the capacity to defend itself. According to threat assessments by several EU intelligence services, Russia's capacity to produce military

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6 OJ L 198, 22.6.2020, p. 13–43; EUR-Lex Link
7 OJ L 322, 16.12.2022, p. 15–80; EUR-Lex Link
8 OJ L 171, 29.6.2016, p. 1–65; EUR-Lex Link
9 OJ L 2024/1760, 5.7.2024; EUR-Lex Link
10 THE 17 GOALS | Sustainable Development
11 Regulation (EU) 2021/1119, OJ L 243, 9.7.2021, p. 1–17
12 United Nations Declaration of Human Rights
13 United Nations Charter chapter VII — Action with respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression

equipment has increased tremendously and it would have the military capabilities to test the unity of Western countries and the effectiveness of Article 5 of the North Atlantic Treaty within the next three to five years.

(4) This mandates the adoption of a defence-readiness mindset and the immediate ramp up of efforts to re-establish defence readiness and deterrence by 2030. In this context, defence readiness should be understood as the ability of Member States to anticipate, prevent and respond to defence-related crises. To achieve this readiness, boosting the capability and readiness of the defence industry is crucial, as this industry in turn ensures that Member States' armed forces have the equipment necessary to protect the Union's citizens. Thus, a competitive and resilient Union's defence industry is critical to safeguarding Europe's peace and security[14]. As such, it also contributes to the accomplishment of the objectives of the Common Security and Defence Policy (CSDP), which is enshrined in Articles 42 and 46 of the Treaty on the European Union. The defence industry is thus necessary for military deterrence against potential aggressors, and for the protection of the Union's citizens in the scenario of the most extreme military contingency, namely armed aggression. To the extent that it helps fulfil this objective, the EU's defence industry has the potential to contribute to our common peace and security, in line with UN Sustainable Development Goal 16 – Peace, justice and strong institutions[15].

## 2.2 The defence industry in the context of the EU sustainable finance framework and the CSDDD

(1) As stated in the European Green Deal, "The transition to climate neutrality requires changes across the entire policy spectrum and a collective effort of all sectors of the economy and society"[16]. To that end, the EU sustainable finance framework and the CSDDD helps companies and investors better integrate sustainability into their decisions, products, services, or processes.

(2) In line with this collective effort involving all sectors, the Commission recalls that, as with any other business, companies active in the defence sector are subject to the general expectation to become more sustainable in environmental, social, and governance dimensions.

(3) The Commission has already clarified on several occasions the relationship between social sustainability and the defence industry. In particular, both the Proposal for a Regulation on establishing the Act in Support of Ammunition Production[17] and the European defence industrial strategy[18] recalled that 'the Union defence industry is a crucial contributor to the resilience and the security of the Union, and therefore to peace and social sustainability. Given its contribution to resilience, security and peace, the EU defence industry enhances sustainability'.

[14] European Defence Industrial Strategy
[15] THE 17 GOALS | Sustainable Development
[16] OJ L 243, 9.7.2021, p. 1–17 Recital 25
[17] COM(2023) 237 final. The Regulation was adopted by the European Parliament and the Council as Regulation (EU) 2023/1525. OJ L 185, 24.7.2023, p. 7. The co-legislators endorsed the same text in Recital 35.
[18] European Defence Industrial Strategy p. 24

(4) The Commission notes that the sustainable finance framework is fully consistent with the EU's efforts to facilitate the European defence industry's access to sufficient finance and investment[19]. It does not impose any limitations on the financing of the defence sector. EU rules on sustainability disclosures and preferences apply horizontally across all industries and do not single out any sector. The Joint White Paper for European Defence Readiness 2030 also states that 'the SFDR does not prevent the financing of the defence sector'[20]. The defence industry is treated like any other sector, and only 'controversial weapons' (see Section 4.2.1.2), are deemed subject to additional disclosure requirements. Therefore, excluding the defence industry as such would not be consistent with applicable legal framework.

(5) As to the CSDDD, it covers the defence sector like any other sectors except for excluding from the due diligence obligations the activities of downstream business partners that are related to products which are subject to export control by a Member State (meaning either the export control under Regulation (EU) 2021/821 of the European Parliament and of the Council regarding the control of exports, brokering, technical assistance, transit and transfer of dual-use items, or the export control of weapons, munitions or war material under national export controls), after the export of the product is authorised.

## 3 Risk mitigation in engagement with the defence industry

### 3.1 International treaties and EU legislation regulating use and export

(1) The defence industry is highly regulated, and is subject to legislation on the production, use and transfer of the products and technologies it develops, including weapons, within and outside the EU. These regulations help to mitigate potential adverse impact related to the use of the products developed by the defence industry, consistent with the broad objectives of the EU sustainable finance framework and the EU Common Foreign and Security Policy.

(2) In line with the right of self-defence recognised by Article 51 of the UN Charter[21] and as recalled in the Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment ('the Common Position')[22], recital 12 of the preamble, Member States have the right to transfer and export the means of self-defence. The Commission encourages operators to follow a case-by-case logic when assessing the financing of a given defence sector company or activity against sustainability considerations. Decisions should be made on the basis of compliance with applicable laws, treaties and risk mitigation processes set out in this section.

(3) The export and intra-EU transfer of military and dual-use items is subject to strict controls implemented by Member States. Member States' enforcement of compliance with EU and international legislation relies on the industry taking due diligence measures. For instance, as a prerequisite to obtain export licenses, defence companies are required to implement robust internal control and compliance measures, imposed by national export control authorities. The close supervision by Member States' agencies enforcing the

[19] European Defence Industrial Strategy: page 25 Box 5: Defence industry and the EU sustainable finance framework

[20] JOIN (2025) 120 final, p.18

[21] eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008E0944

[22] CL2008E0944EN0010010.0001_cp 1..1 (europa.eu)

export control mechanism constitutes an important part of addressing potential adverse impacts of the products developed by the defence industry.

3.1.1 Extra-EU transfers (exports) of military technology and equipment

(1) Export control on shipments of arms, ammunition, their components, and military technology is regulated through the CFSP (legal acts are adopted on the basis of Article 29 of the Treaty on European Union). According to Article 40 of the Treaty on the European Union, the implementation of the Common Foreign and Security Policy shall not affect the division of powers between the EU and the Member States[23]. Member States, through their national systems, control the export of military technologies and equipment (including weapons) listed on the Military List of the European Union[24], in compliance with the Common Position. The Common Position lists criteria which need to be considered by Member States to grant an export licence. These conditions include, *inter alia*, the respect of human rights in the recipient country and the preservation of regional peace and security. The Common Position is legally binding on Member States.

(2) The Common Position recalls the obligations under the Arms Trade Treaty, to which all EU Member States are parties, and which provides, inter alia, that states parties shall not authorize any transfer of conventional arms or of items covered under the Treaty if the transfer would violate its obligations under measures adopted by the United Nations Security Council acting under Chapter VII of the Charter of the United Nations, in particular arms embargoes; its relevant international obligations under international agreements to which it is a party, in particular those relating to the transfer of, or illicit trafficking in, conventional arms; or if it has knowledge at the time of authorization that the arms or items would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which it is a Party[25].

(3) The Common Position also establishes obligations to deny transfers if approval would be inconsistent with the international obligations and commitments of Member States, such as the Treaty on the Non-Proliferation of Nuclear Weapons (1968), to which all EU Member States are parties, which provides that each undertakes not to transfer nuclear weapons or explosive devices directly or indirectly, and which clarifies this obligation as a basis for denying relevant export licenses[26], and other treaties. The User's Guide to the Common Position[27] provides a comprehensive, yet non-exhaustive, list of treaties to be taken into consideration before authorising an export license[28].

(4) The User's Guide includes a series of mechanisms Member States can put in place to address re-export and end-user concerns, such as the minimum information to be contained in an end-user certificate. These include, among others 'end-use and/or non re-

[23] OJ C 115, 9.5.2008, p. 194–194

[24] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C_202501499

[25] https://thearmstradetreaty.org/hyper-images/file/ATT_English/ATT_English.pdf?templateId=137253

[26] Article 2, (1b)

[27] https://data.consilium.europa.eu/doc/document/ST-6881-2025-INIT/en/pdf

[28] These include treaties and international instruments (regimes) governing use and/or stockpiling and/or export and transfer or military equipment and technology, such as (but not limited to): the Australia Group, MTCR, Zangger Committee, Nuclear Suppliers Group, Wassenaar Arrangement, The Hague Code of Conduct against the Proliferation of Ballistic Missiles (HCoC) (ANNEX III (to Chapter 2 Section 6).

export clause, where appropriate' and an option for Member States to include 'a clause prohibiting re-export of the goods covered in the end-user certificate'. The methodology included in the User Guide, as well as the international agreements it references[29] serve as standards against which Member State authorities assess the behaviour of companies in the sector.

(5) The User's Guide also contains optional facilitating mechanisms to promote convergence and facilitate decision-making on exports of jointly funded and produced military equipment or technology. The general guiding principle should be that, unless they decide otherwise, EUMS cooperating to jointly develop a military equipment or technology will facilitate, on the basis of risk assessments in accordance with the criteria of the Common Position and mutual trust, the export of this equipment or technology outside the EU provided that the export does not undermine their direct or national security interests and their international obligations (regarding trade in military equipment or technology). In order to promote convergence and facilitate decision-making on exports of jointly funded and produced military equipment or technology, participating Member States are encouraged to consult with each other on their risk assessment of potential export destinations and end-users to ensure a successful implementation of the joint project. In agreeing to this common principle, they plan to put in place a framework for carrying out consultations, if necessary.

(6) The EU Council Sub-Working Group on Conventional Arms Exports (COARM) contributes to the implementation of the EU Common Position, *inter alia* by facilitating the exchange of information between Member States on denials and on sensitive destinations. The EU helps to provide transparency on arms export by sharing data on arms exports annually in a database managed by the European External Action Service (EEAS)[30].

3.1.2 Intra-EU transfers of military technology and equipment

Intra-EU transfers are also regulated through Directive 2009/43/EC[31] on transfers of defence-related products within the Union, which sets out several criteria for consideration by Member State's authorities prior to authorising the transfer of defence equipment or technology. These include, for example, processes to avoid the possible diversion of defence-related products. It also lays down a requirement for Member States export authorities to monitor the recipient country's compliance with the export limitations set out in the transfer licence, once every three years[32].

3.1.3 Extra-EU transfer of dual-use items

(1) The Commission recalls that the export control of dual-use items is subject to EU legislation, and subject to different governance from the export of military items. Regulation (EU) 2021/821 established the EU regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items[33].

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29 Such as the Wassenaar Arrangement End User/End Use Controls for Exports
30 Database managed by the EEAS
31 CL2009L0043EN0020010.0001.3bi_cp 1..1 Point 7.1
32 Chapter III Article 9
33 Publications Office (europa.eu)

(2) In 2019, the Commission issued Recommendations[34] on the internal compliance programmes for dual-use trade controls under Council Regulation (EC) No 428/2009 for companies engaging in the export, transfer, brokering and transit of dual-use items[35]. Companies seeking certain licenses should have internal compliance mechanisms covering the following aspects, which could also serve as a template for financial operators seeking to assess the due diligence of relevant companies: top-level management commitment to compliance; organisation structure, responsibilities and resources; training and raising awareness; transaction screening process and procedures; performance review, audits, reporting and corrective actions; record-keeping and documentation; physical and information security.

## 3.2 Risk mitigation in different legislative files of the sustainable finance framework and the CSDDD

### 3.2.1 SFDR

(1) The SFDR is a transparency framework which sets out how financial market participants in the EU have to disclose sustainability information[36]. The SFDR is designed to allow investors to properly assess how sustainability risks are integrated in the investment decision process[37] and to better understand the possible adverse impact of financial products on sustainability. Commission Delegated Regulation (EU) 2022/1288, supplements the SFDR with regulatory technical standards. For example, it requires financial intermediaries, to explain how a financial product with a sustainability objective (i.e. disclosure under Article 9 of the SFDR) does not significantly harm any of the sustainable investment objectives. In these cases, financial market participants must describe how they take into account the adverse impacts in Table 1 of Annex I and any relevant indicators in Tables 2 and 3 of that Annex.

(2) For financial market participants investing in the defence industry, the principal adverse impact (PAI) indicators in Table 1 of Annex I which might call for further explanation, would be, PAI 10 'Violations of UN Global Compact principles and OECD Guidelines for Multinational Enterprises',[38] PAI 11 'Lack of processes and compliance mechanisms to monitor compliance with UN Global Compact principles and OECD Guidelines for Multinational Enterprises', and PAI indicator 14 'Exposure to controversial weapons'.

#### 3.2.1.1 PAI indicators 10 and 11 – Assessing potential adverse impacts from defence industry investments

(1) Regulation (EU) 2022/1288 does not specify in detail how financial market participants can assess whether an investment in an economic activity that contributes to an environmental or social objective complies with PAIs 10 and 11 in Table 1 of Annex I table I to the SFDR.

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[34] Commission Recommendation (EU) 2019/1318 of 30 July 2019 on internal compliance programmes for dual-use trade controls under Council Regulation (EC) No. 428/2009

[35] OJ L 134, 29.5.2009, p. 1–269

[36] The 19 March Joint White Paper on European Defence Readiness 2030 states that "The Commission will provide the necessary clarification in the context of the review of the SFDR, on the relationship of defence with the investment goals of the sustainability framework"

[37] Sustainability-related disclosure in the financial services sector - European Commission

[38] OJ L 196, 25.7.2022, p. 1-72, see p.43

(2) The UN Global Compact is a voluntary framework for aligning corporate operations and strategies with ten universally accepted principles of corporate responsibility, including principles on human rights. Principle 1 requires businesses to 'support and respect the protection of internationally proclaimed human rights' and Principle 2 requires businesses to 'make sure that they are not complicit in human rights abuses'. A key element of the Global Compact is the Communication on Progress (COP), an annual disclosure that participating companies must submit. The COP outlines efforts to implement the ten principles, enhancing transparency and accountability among stakeholders.

(3) The OECD Guidelines for Multinational Enterprises dedicates Chapter IV to human rights, setting out six principles. The third principle asks companies to 'seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts.' Principle five asks that they 'carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts[39]'.

(4) The Commission encourages operators to factor in due diligence requirements and measures put in place in order to comply with export control legislations detailed in section 2.1 as contributing to the fulfilment of the objectives of UN Global Compact Principles 1 and 2, principles 3 and 6 of Ch. IV of the OECD Guidelines for Multinational Enterprises, and in turn to PAIs 10 and 11 under Regulation (EU) 2022/1288.

3.2.1.2 PAI 14 – Controversial weapons

(1) PAI indicator 14[40] - 'share of investments in investee companies involved in the manufacture or selling of controversial weapons'- only covers the disclosure of exposure to four categories of controversial weapons: anti-personnel mines, cluster munitions, chemical weapons and biological weapons. These are weapons banned by a majority of Member States or by international law binding the EU directly and deemed as having a principal adverse impact.

(2) The definition of controversial weapons listed in the SFDR does not cover nuclear weapons. Only three Member States, Austria, Ireland and Malta, have so far signed the Treaty on Prohibition of Nuclear Weapons. This is a separate treaty to the 1968 Treaty on Non-Proliferation of Nuclear Weapons (TNP). All Member States are parties to the TNP. The TNP provides that each party undertakes to not transfer or receive nuclear weapons or explosive devices directly or indirectly to any recipient. The TNP is without prejudice to the nuclear programmes of those States in possession of nuclear weapons at the time of signing in 1968.

(3) This disclosure obligation refers to the following international conventions:

- The development, production of biological weapons is prohibited by the Convention on the prohibition of the development, production and stockpiling of bacteriological

[39] OECD Guidelines for Multinational Enterprises on Responsible Business Conduct
[40] Annex 1 table 1 Commission Delegated Regulation 2022/1288

(biological) and toxin weapons and on their destruction adopted in London on 10 April 1972, which has been signed and ratified by all EU Member States[41].

- The development and production of chemical weapons is prohibited by the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction adopted in Paris on 13 January 1993[42], which has been signed and ratified by all EU Member States.

- The production of anti-personal mines is prohibited by the Convention on the prohibition of the use, stockpiling, production and transfer of anti-personnel mines and on their destruction adopted on 18 September 1997, which has been signed and ratified by a large majority of Member States [43].

- The production of cluster munitions is prohibited by the Convention on Cluster Munitions of 30 May 2008[44], which has been signed and ratified by Austria, Belgium, Bulgaria, Czechia, Denmark, Germany, Ireland, Spain, France, Croatia, Italy, Luxembourg, Hungary, Malta, the Netherlands, Austria, Portugal, Slovenia, Slovakia and Sweden.

### 3.2.2 EU Taxonomy

(1) The EU Taxonomy is a transparency tool for private finance which establishes a classification of environmentally sustainable activities with a view to promoting environmentally sustainable investments.

(2) Under Article 3 of the EU Taxonomy Regulation, to be considered *'environmentally sustainable'*, economic activities must: *'substantially contribute'* to one of the six environmental objectives and *'do no significant harm'* to any of the other environmental objectives. They must also be carried out in compliance with the minimum safeguards set out in Article 18 of the EU Taxonomy Regulation; and comply with technical screening criteria.

(3) The minimum safeguards referred to in Article 18 of the EU Taxonomy Regulation aim to ensure that entities carrying out economic activities considered as 'Taxonomy-aligned' meet certain minimum social and governance standards. Under Article 18(1), undertakings whose economic activities are to be considered as Taxonomy-aligned must have implemented due diligence and remedy procedures to ensure the alignment with the standards for responsible business conduct mentioned in the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights.

(4) The Commission encourages operators to factor in due diligence requirements and measures put in place to comply with the national export control legislations detailed in section 4.1 as contributing towards the fulfilment of UN Guiding principle 13, principles 3 and 6 of Ch. IV of the OECD Guidelines for Multinational Enterprises, and in turn towards the minimum safeguards under Article 18(1) of the EU Taxonomy Regulation.

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41 IHL Treaties - Convention on the Prohibition of Biological Weapons, 1972

42 IHL Treaties - Convention prohibiting Chemical Weapons, 1993 (icrc.org)

43 IHL Treaties - Anti-Personnel Mine Ban Convention, 1997 (icrc.org) The Commission notes that Finland, Poland, Estonia, Latvia and Lithuania have recently announced their plans to withdraw from this treaty.

44 IHL Treaties - Convention on Cluster Munitions, 2008 (icrc.org)

(5) Article 18(2) of the EU Taxonomy Regulation makes direct reference to the SFDR principal adverse impact indicators related to sustainability factors[45]. Therefore, undertakings shall ensure that their due diligence and remedy procedures allow for the identification, prevention, mitigation, or remediation of any actual or potential exposure to the manufacture or selling of controversial weapons, as defined in SFDR Delegated Regulation[46] (see 4.2.1.2).

3.2.2.1 Claiming EU Taxonomy alignment in defence related undertakings

(1) The Commission recalls that the undertakings involved in defence-related activities can, like any other sector, claim Taxonomy-alignment for eligible horizontal investments specified in the Taxonomy Delegated Acts. This includes, for example, investments in greening their buildings and infrastructure, or investment in clean transport in the form of CapEx and/or OpEx referred to in point (c) of Sections 1.1.2.2. and 1.1.3.2 of Annex I to the Disclosures Delegated Act. They can also claim alignment for any other activities identified in the Taxonomy Delegated Acts (i.e. activities in the field of transport, data solutions, manufacturing etc.).

(2) Similarly, the fact that specific defence industry activities have so far not been included in the EU Taxonomy, does not prejudge the defence industry's environmental performance[47].

(3) While the EU Taxonomy Climate and Environmental Delegated Acts set specific technical screening criteria that companies need to meet if they want to disclose that their economic activities are taxonomy-aligned, other pieces of the EU sustainable finance framework offer different ways of assessing the sustainability aspects of economic activities and operators.

(4) The February 2025 'Omnibus' simplification package[48] aims to substantially reduce administrative burden for companies reporting on their Taxonomy alignment. A comprehensive revision of the Taxonomy Delegated act will be also carried out, as part of the Commission's simplification commitment.

3.2.3 MiFID II

(1) Requirements under MiFID II for investment firms to consider clients' sustainability preferences and to consider sustainability preferences when determining target markets make direct reference to the SFDR and the EU Taxonomy Regulation. As a result, end clients with sustainability preferences under MiFID II will have to be advised on products that are invested (or provide exposure to), at least to some extent, in either Taxonomy-aligned activities, or in sustainable investments, in line with Article 2(17) of the SFDR, or that take PAIs into consideration.

(2) Because of the direct reference to 'sustainable investments' as defined in the SFDR and to 'environmentally sustainable investments' as defined in the Taxonomy, MiFID II

[45] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023XC0616(01)
[46] Commission Notice on the interpretation and implementation of certain legal provisions of the EU Taxonomy Regulation and links to the Sustainable Finance Disclosure Regulation Publications Office (europa.eu)
[47] See point 12 OJ C, C/2023/267, 20.10.2023
[48] 2025/0045 (COD)

implies that operators consider the principle of minimum safeguards under the EU Taxonomy Regulation and the principle of 'do no significant harm' under the SFDR when assessing whether the product they distribute satisfies sustainability preferences. The latter includes exposure to the PAI indicator concerning controversial weapons as set out in the SFDR (see 4.2.1.2).

(3) As regards the PAIs consideration under MiFID II, no provision prescribes operators to consider that the investments in the defence sector have adverse impacts for the sole reason of being invested in that sector, and should therefore not be offered to any client with sustainability preferences.

### 3.2.4 CSDDD

(1) The CSDDD, which came into force on 25 July 2024, requires large companies which are headquartered, or make significant revenue in the EU, to identify and address the adverse human rights and environmental impacts of their actions within the EU and across their global value chains.

(2) Defence companies which fall under the scope are subject to the CSDDD, like any other company. They have to conduct sustainability due diligence with respect to their own operations, the operations of their subsidiaries and the activities of their business partners that are related to the production of the company's products or provision of its services (upstream) or to the distribution, transport and storage of the company's products (downstream). Pursuant to Article 3 of the CSDDD, due diligence obligations under this Directive do not extend to activities of companies' downstream business partners that are related to military and dual-use products when their export has been authorised by Member Sates authorities: '"chain of activities" means: activities of a company's downstream business partners related to the distribution, transport and storage of a product of that company, where the business partners carry out those activities for the company or on behalf of the company, and excluding distribution, transport and storage of a product that is subject to export controls under Regulation (EU) 2021/821 or to the export controls relating to weapons, munitions or war materials, once the export of the product is authorised'[49].

(3) The February 2025 'Omnibus' proposals for directives[50], aims to reduce regulatory burden on companies, including by simplifying for the companies within the scope their obligations to identify actual or potential adverse impacts that arise at the level of their indirect business partners. However, once an adverse impact is identified, companies will have to prevent it from occurring or to bring it to an end, following a prevention or corrective action plan where necessary. [51].

[49] OJ L, 2024/1760, 5.7.2024, Article 3 (g) (ii) ; EUR-Lex Link
[50] 2025/0045 (COD)
[51] SWD(2025) 80 p. 18

(4) As a first implementation step of this Omnibus package, an amendment of the CSDDD entered into force on 17 April, postponing the transposition deadline and the first date of application by one year: to July 2027 and July 2028, respectively[52].

### 3.2.5 CSRD

(1) The CSRD introduces mandatory EU sustainability reporting standards, known as ESRS (European Sustainability Reporting Standards). These standards require disclosures of sustainability-related information and do not restrict investments in any sectors. Two key provisions from the first set of cross-cutting standards, which are currently in force, are particularly relevant to the defence industry:

- General Requirements (ESRS 1, paragraph 105): This standard allows companies to withhold disclosure of classified or sensitive information, even if it is deemed material. The Commission clarifies that the defence industry is more likely than other sectors to is more likely than other sectors to use the provision that allows the omission of sensitive or classified information. For example, they may need to apply this provision in the case of raw material supply volumes or certain sustainability-related financial information. This fact should in turn influence how assurance providers engage with defence industry companies on the use this provision.
- Consumers and End Users (ESRS S4): This standard clarifies that any unlawful use or misuse of a company's products or services by consumers or end-users is outside the scope of this standard.

(2) The February 2025 'Omnibus' proposal for the revision of the CSRD and the CSDDD [53], while substantially reducing the scope of companies expected to comply with reporting requirements under the CSRD, does not impact the pre-existing provisions set out above.

(3) The Commission also proposed to delay application of the CSRD by two years for the second and third waves of companies covered by the legislation. This proposal has been agreed by co-legislators and entered into force on 17 April 2025.[54] It will have to be transposed by Member States by 31 December 2025.

### 3.2.6 BMR

(1) The BMR aims to ensure the transparency, reliability, and justification of benchmarks used in EU financial markets. A benchmark is a reference point used to measure the performance or value of an investment, a company, or a market. The BMR established 'Climate Transition Benchmarks' (CTBs) and 'Paris-aligned Benchmarks' (PABs) and introduced sustainability-related disclosures for benchmarks.

(2) Commission Delegated Regulation (EU) 2020/1818[55], supplements the BMR by providing specific requirements for labelled climate-related benchmarks. The regulation

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[52] Directive (EU) 2025/794 of the European Parliament and of the Council of 14 April 2025 amending Directives (EU) 2022/2464 and (EU) 2024/1760 as regards the dates from which Member States are to apply certain corporate sustainability reporting and due diligence requirements

[53] 2025/0045 (COD)

[54] 2025/0044 (COD)

[55] OJ L 406, 3.12.2020, p. 17–25

aims to promote the development of high-quality climate-related benchmarks and lays down rules on exclusions.

(3) The Commission has clarified in a dedicated amending regulation in this same defence Omnibus package that only companies involved in prohibited weapons must be considered for the purpose of applying the exclusions under Article 12(1)(a) of that Delegated Regulation. Prohibited weapons, in turn, "shall mean anti-personnel mines, cluster munitions, biological and chemical weapons the use, possession, development, transfer, manufacture, and stockpiling, of which is expressly **prohibited** by the international arms conventions to which the majority of Member States is party, as listed in the Annex to that Delegated Regulation."

## 4 Revenue thresholds

(1) The EU sustainable finance framework does not prescribe any exclusions regarding the financing of defence-related activities based either on a percentage of a given company's turnover in military/defence activities, or on a percentage of the fund's portfolio from investment in defence/military-related activities. The Commission recalls the EU sustainable finance framework is neutral with regard to the defence sector and only singles out 'controversial weapons' as set out in the SFDR and explained above.

(2) Generalised exclusions of the defence sector based on turnover would not be consistent with a case-by-case logic to mitigate risks related to sustainability considerations. It is also deemed inconsistent with the EU's strategic needs and priorities, as the use of revenue thresholds to exclude the defence sector would particularly penalise SMEs, which, due to specialisation demands and size constraints, often cannot diversify their activities into civilian markets[56].

(3) The Commission encourages operators - including supervisory authorities and ESG label providers (such as national ecolabels) - to design their exclusion policies in line with the case-by-case approach and with the list of controversial weapons as explained above.

## 5 Assessing the defence sector's contribution to social sustainability

(1) The EU sustainable finance framework enables financial market participants to disclose investments in economic activities on the basis of their contribution to broader societal or environmental goals.

(2) In Section 3 of the European defence industrial strategy, the Commission recognises the defence industry as a crucial contributor to the resilience and security of the Union, and therefore to peace and social sustainability.

(3) The SFDR defines what is understood by activities that contribute to environmental or social objectives in Article 2(17). This definition does not include a closed list of sectors/economic activities. In line with section 3 of this Notice, financial market participants may conclude, based on a careful case-by-case assessment, that economic activities conducted by the EU defence industry to safeguard peace and security, provided they do not significantly harm any other sustainability objectives and that the company

[56] Study results: Access to equity financing for European defence SMEs - European Commission (europa.eu)

conducting the activity follows good governance practices, contribute to social objectives. Like for any other type of activities, there is however no upfront presumption that defence activities would contribute to a social objective.

(4) In light of this, the Commission encourages operators to not treat defence as a *de facto* non-contributing sector in their assessment of sectors which make a positive contribution towards social sustainability. The same principle should apply to operators assessing the sustainability preferences and defining target markets under MiFID.