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EU EXPORT CONTROL COOPERATION INITIATIVE

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1. EU Regulation and Policies

Since the adoption in the year 2000 of the EU Dual Use Regulation 1334 (as amended), the EU has a common approach to Export Control of Dual Use Goods. The driving force behind the drafting and the adoption of the Regulation has clearly been the facilitation of trade. The Regulation is obligatory law for all the EU Member States. The implementation and enforcement is done nationally, by the responsible Authorities. One specific element of the Regulation is its single Control List, combining the lists of the Export Control Regimes. Due to the EU open market, all dual use goods, with only very few exception, are free to move from one EU Member State to another. All Member States are therefore potential supplier countries for these goods and this justifies why all of them should be members of the export control regimes.

In December 2003, the EU adopted its Strategy against the proliferation of WMD. This strategy is a full fledge approach responding to the new threat perception related to WMD, their materials and technologies. The Strategy states that “...*the EU is committed to strengthening export control policies and practices within its borders and beyond, in coordination with partners... The EU will expand cooperative threat reduction activities and assistance programmes... by increasing EU cooperative threat reduction funding in the light of the financial perspectives beyond 2006 (new budget cycle 2007-2013)*”.

In order to strengthen the export policies and practices inside the EU (and in the perspective of the Enlargement which took place in 2004), a Peer Review Process has taken place. It allowed a better understanding of the national practices of implementation and enforcement of the EU Dual Use Regulation. It also fostered the exchanges on good practices between Member States and facilitated confidence building for the time of the accession of the new Member States. The results of the Peer Review have been used by

the Commission (DG TRADE) to initiate an impact assessment study of possible changes to be brought, in the future, to the EU Dual Use Regulation.

In November 2003, the EU decided to insert a WMD Clause in all future mixed Agreements with third countries. The Model Clause stipulates that “...*the Parties agree to cooperate and to contribute to countering the proliferation of weapons of mass destruction and their means of delivery by... the establishment of an effective system of national export controls, controlling exports as well as transit of WMD related goods, including a WMD end-use control on dual use technologies and containing effective sanctions for breaches of export controls*”. Clauses have been negotiated already with some States. Some have explicitly asked the support of the EU for the implementation of the Clause and export control in particular (eg : African States during the renewal of the Cotonou Agreement).

In April 2004, the UNSCR1540 was adopted which, among other things, constitute a major step towards the “universalisation” of export controls. As a result each and every country is bound to “*establish, develop, review and maintain appropriate effective national export and transshipment controls...*” The Resolution “*recognizes the utility of effective national control lists and calls upon all States, when necessary, to pursue at the earliest opportunity the development of such lists*”. For that purpose, it “*recognizes that some States may require assistance in implementing the provisions of the Resolution and invites States in a position to do so to offer assistance as appropriate in response to specific requests...*”

2. A first EU cooperation project

In November 2002, a Russia-EU Round Table meeting “Systems of Export Control in Russia and the EU, State of Play, Perspectives of Cooperation” was held in Moscow at the Delegation of the European Commission. The meeting assembled a large number of Russian participants, from different Ministries and NGOs. On the EU side, the team assembled experts from the Commission, Germany, the Netherlands, France and Finland. The EU Dual Use Regulation was presented, as well as diverse aspects of licensing and enforcement managed at national level. The Russian side gave an overview of the state of play of their efforts to modernize their export control system.

As result of the meeting, an initial proposal for a cooperation project was drafted and discussed with the EU Member States and the Russian counterpart. Contacts were also established with the US EXBS programme, led by the US DOS, to ensure that the EU proposal was not duplicating already ongoing projects.

After long delays due to various difficulties and hurdles, mainly due to the setting up of an appropriate implementation mechanism ensuring the proper involvement of EU official experts, the terms of reference for a TACIS project worth 3 Meuros are under finalisation. Hopefully an agreement will be signed before the end of the year between the European Commission and the German BAFA, who will implement the project, with the support of experts of other EU Member States as appropriate.

The project will focus on the legal and regulatory framework, on the support for capacity building, on implementation practices (licensing and enforcement), including at local

level in Russia, and on the Government-Industry relations. The method will mainly use exchange seminars for EU-Russian official experts, the drafting of a Reference Guidebook for export control implementation, the setting up of an Internet Information Centre, training seminars for Russian licensing and enforcement officers and seminars and workshops for industry specialists. Training needs assessments will be done in detail at the beginning of the project, which will allow further fine tuning to the Russian needs and take account of other existing cooperation programmes.

3. Preparing the ground for further cooperation

At the end of 2003, as a result of the Inter-Parliamentary Conference held in Strasbourg in the frame of the Non Proliferation and Disarmament Cooperation Initiative and of the adoption of the EU WMD Strategy, the European Parliament and Council, have asked the Commission to implement a Pilot Project (1.5 Meuros) to define how Community funds could support EU non proliferation actions. The Pilot Project is cofinanced by the UK. SIPRI has been asked to run a set of research studies covering nuclear security, chemical weapons destruction, biological threat reduction, reconversion of expertise, export control and border security. The studies will feed into the reflection on the further Community contribution for non proliferation during the next budget cycle (2007-2013). The draft report on export control has just been issued and preliminary outcomes can be presented. Next to the research study, one validation exercise will be held in the course of 2006 to feed into the Pilot Project. This validation will concern export controls in the Balkan region, in particular in Croatia, Bosnia Herzegovina, Serbia and Montenegro. The choice has been made due to the geographical neighbourhood with the EU, and the potential for these countries to join the EU (Croatia being already well engaged into the process). Seminars will be organised to exchange information on export control legislation and implementation, and result in a better definition of an action plan for further possible actions.

A second Pilot Project (1.5 Meuros) was again attributed to the Commission at the end of 2004. The scope of that one is still under preparation, but decision has been taken to focus on export control cooperation. Indeed there are enough signs pointing to the needs in that specific field and to the potential for a wider EU cooperation programme, joining long standing US and Japanese efforts. One can mention the EU neighbourhood policy and the next round of accession, the EU political dialogue with some key partners (China, India, Middle East and North Africa countries,...), the follow up of the WMD clauses, the assistance needs resulting from the UNSCR 1540, the priorities for outreach defined in the export control regimes,...

The terms of reference for the second Pilot Project are in their final stage of preparation. The intention is to select three to four countries or regions for launching a cooperation programme. The selection will be made at the start of the inception phase, and the scope of actions will be then further determined according to the initial needs of the counterparts. The range of possible action is wide : initial exchange seminars, support for drafting legislation and/or implementation regulations, training for implementation officers, information of industry,...

The implementation will be done by the German Licensing Authority BAFA. Germany is cofinancing the Pilot Project. BAFA will call upon experts of other EU Member States as

required. This method will serve as a pilot for the set up of a mechanism for the effective implementation of longer term cooperation and assistance by the EU in the field of export control.

4. Future perspectives

The EU is presently discussing its future budget perspectives. The Commission is making proposals to the Council and the Parliament for diverse external relations cooperation and assistance tools. The Commission has included reference to programmes to foster WMD non proliferation, in line with and support to the EU WMD Strategy and the commitments taken in the G8 Global Partnership. Export Control is an area for possible future action. The TACIS project in Russia and the two Pilot Projects described above will provide a good background for the decision making process on future budget allocations.

As a result, one can say that today, through the EU WMD Strategy, there is a political will at EU level to enter into a more structured and predictable programme of cooperation with third countries in the field of export control. Already the Commission has been able to secure some limited financial means to launch first projects, some of them serving as pilot cases. The Commission has also proposed to the Council and the Parliament to make further financial means available under the new budget cycle (2007-2013). If that is agreed by the Budgetary Authorities, it will then be needed to ensure the availability of competent experts to deliver the substance. The expertise is mainly within the Implementation Agencies (Licensing Authorities, Customs Agencies, Judicial Systems) of the EU Member States. The resources are quite limited. Diverse options are under discussion, as a result of the SIPRI Study and the Pilot Projects. Only when ways forward will be defined to secure the matching between the political will, the financing means and the availability of expertise, will the EU be able to ensure its role in export control cooperation with third states. As it can be seen work is in progress and there is a good prospect to achieve the goal.