



**The EU export control regime  
for dual use items**

***10th International Export  
Control Conference, Istanbul,  
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## **The objectives of the EU regime**

- **To provide a legal basis for the control of external trade in dual use items that is in force in ALL EU Member States (MS)**
- **To enable EU MS to fulfil their commitments as members of international non-proliferation treaties and arrangements.**

## **Who does what in the EU (1)?**

### **The role of the Commission:**

- **exclusive right to propose legislation**
- **facilitates discussion on and monitors implementation**
- **interacts with EU industry**
- **prepares for enlargement and candidates' alignment with EC law (peer reviews, TAIEX instruments)**

## **Who does what in the EU (2)?**

### **The role of Member States:**

- **implement EC legislation**
- **adopt complementary legislation as needed**
- **participate in international export control regimes**
- **enforcement**

## **The legislation adopted at EU Level**

- **Regulation 428/2009 (replaces 1334/2000 wef 27 August 2009). It sets the rules for export controls and establishes the framework for administrative cooperation between MS**
- **It contains as an annexe the list of items controlled (to be updated annually by new Regulation)**

## **The assessment of the EU system**

**Regulation 428/2009 (adopted 5 May 2009, effective 27 August 2009) expands requirements of Reg. 1334/2000:**

- **to ensure full compliance with UN Resolution 1540 regarding transit and brokering**
- **to enhance the efficiency of the dual use control regime**

## **Changes related to UNSCR 1540/brokering controls**

- **Brokering is defined in Art. 2**
- **A broker is a resident of, or established in, the EU**
- **Brokered items are located in third countries**
- **Brokering controls are detailed in Art. 5. Brokers are subject to controls only when there is a serious risk of WMD diversion.**

## **Changes related to Transit (Art. 6)**

- **Definition of transit is set out in Art. 2.**
- **MS competent authorities may only prohibit transit of non-Community dual use items where there is a serious risk of WMD diversion in the country of destination.**

## **Items controlled when exported from the EU**

- **Items set in Annex I of the Regulation as last updated**
- **Other items controlled nationally by MS**
  - **set out in national legislation (article 4)**
  - **ad hoc controls or « end use controls »**

## **EC Regulation 428/2009: Annex 1**

- **EU list of controlled items**
- **9 categories**
- **Subsumes international export control lists**

- **Correlation list with TARIC**

**[http://trade.ec.europa.eu/doclib/docs/2006/december/tradoc\\_131339.pdf](http://trade.ec.europa.eu/doclib/docs/2006/december/tradoc_131339.pdf)**

- **ECICS database**

**[http://ec.europa.eu/taxation\\_customs/customs/customs\\_duties/tariff\\_aspects/ecics/index\\_en.htm](http://ec.europa.eu/taxation_customs/customs/customs_duties/tariff_aspects/ecics/index_en.htm)**

## **Assessing export applications**

- **Duty of Member States**
- **Industry responsible for classifying items and submitting applications**
- **Criteria for MS to assess export applications: article 12 of the Regulation**
- **Cooperation among Member States in assessing certain licence applications**

## **Control of items not listed in the Regulation or in national legislation (Article 4 of the Regulation)**

- **Role of governments in informing industry**
- **Role of industry in reporting to government on dubious transactions.**

## **The different types of authorisations in place in the Community (all defined in Art. 2)**

- **Community General Export Authorisation**
- **Global Export Authorisations**
- **Individual Export Authorisations**
- **National General Export Authorisations**

## **Some references to EU policy towards countries under embargo**

- **References to embargoed countries**
  - **[http://ec.europa.eu/external\\_relations/cfsp/sanctions/measures.htm](http://ec.europa.eu/external_relations/cfsp/sanctions/measures.htm)**
  
- **General end use control provision in Article 4 (2)**
  
- **Restriction of exports towards Iran: Annex II to Regulation 423/2007 enlarges the scope of controls. Prohibition on NSG, AG, MTCR items**
  
- **Restriction of exports towards DPRK  
Regulation 329/2007**

## Sources

- **EC Website**

[http://ec.europa.eu/comm/trade/issues/sectoral/industry/dualuse/index\\_en.htm](http://ec.europa.eu/comm/trade/issues/sectoral/industry/dualuse/index_en.htm)

**Related links**

<http://ec.europa.eu/trade/issues/sectoral/industry/dualuse/links.htm>

- **MS websites**

<http://ec.europa.eu/trade/issues/sectoral/industry/dualuse/wms.htm>

- **Council secretariat website**

[http://www.consilium.europa.eu/cms3\\_fo/showPage.asp?id=408&lang=EN&mode=g](http://www.consilium.europa.eu/cms3_fo/showPage.asp?id=408&lang=EN&mode=g)