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### WORKING PAPER

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### **WORKING DOCUMENT**

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From:	Presidency
To:	Working Party on Dual-Use Goods
Subject:	Recast of Regulation 428/2009

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## Recast of Regulation 428/2009

Under agenda item no. 1 of the Dual-Use Working Party (DUWP) on 7/8 October, the Presidency will provide a report on the 4<sup>th</sup> trilogue on the recast of Regulation 428/2009 which took place on 22 September 2020 and was followed by a technical meeting on 29 September 2020. For this, the Presidency submits attached text elements which reflect the exchanges that took place in the trilogue as specified in the subsequent technical meeting. These text elements relate to various demands by EP in the trilogue for changes to the Council compromise proposal that were raised also in light of recent media reports following the publication of a report by Amnesty International on cyber-surveillance exports the day prior to the trilogue.<sup>1</sup> The Presidency, while presenting the Council mandate as a package compromise proposal for the entire Regulation, answered to the demands raised by EP on the basis of the mandate. Following a discussion and explanation on the issues, an understanding was reached that the demands by EP could be addressed through recitals and by way of a review clause, thereby not changing any articles of the Council mandate other than adding a review clause. The Presidency considers this outcome of the trilogue as successful and will give a detailed explanation in the DUWP on 7 October. The text elements relate to:

- **Recital 1a:** EP demanded changes to art. 14 by inserting distinct licensing criteria for dual-use items instead of referencing CFSP/944/2008. Leaving art. 14 unchanged, a clarification in Recital 1a states that for cyber-surveillance items human rights are licensing criteria.
- **Recital 5a:** EP demanded changes to the definition of cyber-surveillance items by enlarging the scope of items covered for which EP provided its own draft definition<sup>2</sup>. Leaving art. 2.21 unchanged, Recital 5a provides for a clarification regarding certain data obtained through or certain functionalities where provided by cyber-surveillance items as defined in art. 2.21.
- **Recital 5b and art. 24.4:** EP questioned the modalities of the EU coordination mechanism in art. 4a(6) as regards reference to “all Member States”. Leaving art. 4a unchanged, a new Recital 5b appeals to MS to exercise vigilance in the application of art. 4a and art. 24.4 provides for a review by COM of the EU coordination mechanism after a certain time.
- **Recital 14:** EP demanded to extend the scope of the Regulation to apply to subsidiaries of EU companies in third countries (extraterritoriality) by changing art. 2 no. 7 and 9. Leaving these articles unchanged, a clarification in Recital 14 states that the ICP guidelines take into account exporter’s compliance structures and standards within a company group.
- EP demanded also a different wording of exporters’ obligations (“*becomes aware while exercising its due diligence*” with a reference to be included to the OECD guidelines) which was addressed by pointing out that art. 4a(2) provides for guidelines, thereby requiring no further changes.

The Presidency submits these text elements to the DUWP with the understanding that they encompass the entirety of the Regulation and would represent the final agreement with the European Parliament on the recast to be confirmed only in a final trilogue.

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<sup>1</sup> <https://www.amnesty.org/en/documents/EUR01/2556/2020/en/>

<sup>2</sup> Definition as was presented by EP: ‘cyber-surveillance items’ mean dual use items specially designed for the surveillance of natural persons or organisations by monitoring, extracting, collecting or analyzing data or by incapacitating or damaging the targeted informational and telecommunication systems without the specific, informed and unambiguous authorisation of the owner of the data, which can be used in connection with the violation of human rights, including the right to privacy, the right to free speech and the freedom of assembly and association, or which can be used for the commission of violations of human rights law or international humanitarian law, or can pose a threat to international security or the essential security of the Union. Network and ICT security research for the purpose of authorised testing or the protection of information security systems shall be excluded.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (recast)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

**Having regard to the opinion of the European Economic and Social Committee,**

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Regulation (EC) No 428/2009<sup>1</sup> has been substantially amended several times. Since further amendments are to be made, that Regulation should be recast in the interests of clarity, effectiveness and efficiency.
- (1a) **The Regulation aims to ensure that in the area of dual-use items, the Union and its Member States fully take into account all relevant considerations including international obligations and commitments, obligations under relevant sanctions as well as considerations for national foreign and security policy, including those contained in the Council Common Position of 8 December 2008<sup>2</sup> defining common rules governing control of exports of military technology and equipment, among them human rights, and considerations about intended end use and the risk of diversion. The European Union is committed to maintain robust legal requirements through this Regulation with regard to dual-use items, as well as to strengthen exchange of relevant information and greater transparency. With regard to cyber-surveillance items, the competent authorities of the Member States should in particular consider the risk of use in connection with internal repression or the commission of serious violations of international human rights and international humanitarian law.**
- (1b) **This regulation also aims at strengthening the guidance regarding responsible practices to be given to the exporters, especially to small and medium-sized enterprises (SMEs), while not impairing the global competitiveness of exporters of dual-use items or other associated industry or academia which are resident or established in the Member States of the European Union.**
- (2) United Nations Security Council Resolution 1540, adopted on 28 April 2004, decided that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery, including by establishing appropriate controls over related materials, **equipment and technology [...]**. Controls are also required under relevant international agreements, such as

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<sup>1</sup> Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29 5 2009, p.1).

<sup>2</sup> **ref. to be inserted**

the Chemical Weapons Convention<sup>3</sup> and the Biological and Toxin Weapons Convention<sup>4</sup>, and in line with commitments agreed upon in multilateral export control regimes.

- (3) An effective common system of export controls on dual-use items is therefore necessary to ensure that the international commitments and responsibilities of the Member States and of the Union, especially regarding non-proliferation, **regional peace, security and stability and respect for human rights and international humanitarian law**, are complied with.
- (4) The EU Strategy against proliferation of Weapons of Mass Destruction of 12 December 2003 (EU WMD Strategy) **emphasises the Union's commitment to strong national and internationally-coordinated export controls** [...].
- (5) Contribution by exporters, brokers, suppliers of technical assistance or other relevant stakeholders to the overall aim of trade controls is crucial. In order for them to be able to act in conformity with this Regulation, the assessment of risks related to transactions concerned by this Regulation are to be approached by transaction screening measures, also referred to as the due diligence principle, as a part of Internal Compliance Programs (ICP). In this regard, especially the size and the organizational structure of exporters has to be taken into account when developing and implementing ICPs.**
- (5a) [...] In order [...] to address the risk that certain non listed cyber-surveillance [...] items exported from the customs territory of the Union may be [...] misused by persons complicit in or responsible for directing or committing serious violations of human rights or international humanitarian law [...], it is appropriate to place [...]the export of such [...]items under control [...]. Associated risks relate, [...] in particular, to cases where cyber-surveillance items are specially designed to enable intrusion or deep packet inspection into information and telecommunications systems in order to conduct covert surveillance of natural persons by monitoring, extracting, collecting or analysing data, including biometrics data, from these systems. Items used for purely commercial applications such as billing, marketing, quality services, user satisfaction, network security etc. are considered to generally not entail such risks. [...]**

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<sup>3</sup> **ref. to be inserted**

<sup>4</sup> **ref. to be inserted**

**(5b) With a view to strengthen the effective controls of exports of non-listed cyber-surveillance items it is essential to further harmonize the application of catch-all controls in this area. To this end, Member States are committed to support the controls by sharing information amongst each other and the Commission, in particular regarding technological developments of cyber-surveillance items, and by exercising vigilance in the application of such controls to promote an exchange on EU level.**

- (6) In order to enable the Union to react rapidly to serious misuse of existing technologies, or to new risks associated with emerging technologies, a mechanism should be introduced enabling Member States to coordinate their responses when a new risk is identified. Such coordination should be followed by initiatives to introduce equivalent controls at the multilateral level in order to broaden the response to the identified risk.
- (7) Transmission of dual-use software and technology by means of electronic media, fax or telephone to destinations outside the **customs territory of the** Union should also be controlled. In order to limit the administrative burden for exporters and the competent authorities of the Member States, **facilitations in the form of general or global licenses or harmonised interpretation of provisions should be provided for certain transmissions, e.g. to a cloud [...].**
- (7a) Considering the important role of customs authorities in the enforcement of export controls, the definitions of terms used should, to the extent possible, be consistent with **the definitions in Council Regulation (EU) No 952/2013 of the European Parliament and of the Council (hereinafter the Union Customs Code).**

- (8) Considering that various categories of persons may be involved in the export of dual-use items, including natural persons such as service providers, researchers, consultants and persons transmitting dual-use items electronically, [...] **it is essential they are aware of the risks associated with the export and technical assistance regarding sensitive items. In particular academic and research institutions face distinct challenges in export control due to, inter alia, their general commitment to the free exchange of ideas, the fact that their research work often involves cutting edge technologies, their organizational structures [...] and the international nature of their scientific exchanges. The Member States and the Commission should, where necessary, raise awareness among the academic and research community and provide tailored guidance to them to address these distinct challenges. In alignment with the [...] multilateral export control regimes and to the extent possible, the implementation of controls should provide for a common approach with respect to certain provisions, in particular regarding the academia related de-control notes "basic scientific research" and "public domain".**
- (9) [...]
- (10) The definition of broker should be revised to **include legal persons and partnerships not resident or established in a Member State of the Union who carry out brokering services from the customs territory of the Union [...].**
- (11) With the entry into force of the Lisbon Treaty, it has been clarified that the supply of technical assistance [...] involving a cross-border movement falls under Union competence. It is therefore appropriate to clarify the controls applicable to technical assistance [...], and to introduce a definition of those services. For reasons of effectiveness and consistency, controls on the supply of technical assistance [...] should be harmonised [...].

- (12) **As in Dual-Use** Regulation (EC) No 428/2009, **there should be** [...] a possibility for Member States' authorities **under certain circumstances** to prohibit [...] the transit of non-Union dual-use items, where they, **through intelligence or other sources**, have reasonable grounds for suspecting [...] that the items are or may be intended in their entirety or in part for proliferation of weapons of mass destruction or of their means of delivery **or for a military end-use in a country subject to an arms embargo**. [...]
- (13) Licensing conditions and requirements [...] should be harmonised, **where [...] appropriate**, in order to avoid distortions of competition and ensure the consistent and effective application of controls throughout the **customs territory of the Union**. To this effect, it is also necessary to ensure a clear determination of the competent authority **of the Member State** in all control situations. The responsibility for deciding on individual, global or national general export authorisations, on authorisations for brokering services and technical assistance, [...] on transits of non-Union dual-use items [...] **and on authorisations for the transfer within the customs territory of the Union of the dual-use items listed in Annex IV** lies with national authorities.
- (14) [...] **Guidelines** for "internal compliance programmes" (**ICPs**) should be introduced in order to contribute to the level-playing field between exporters and to enhance the effective application of controls. [...] **These guidelines should take into account the differences in sizes, resources, fields of activity and other features and conditions of exporters and subsidiaries such as intra-group compliance structures and standards**, thus avoiding any 'one model for all' and helping each exporter to find its own solutions for compliance and competitiveness. Exporters using global export authorisations should implement an ICP unless that is considered unnecessary by the competent authority due to other [...] **circumstances** it has taken into account when processing the application for a global export authorisation submitted by the exporter. [...]

(15) Additional Union general export authorisations should be introduced in order to reduce administrative burden on companies, **in particular [...] SMEs**, and authorities while ensuring an appropriate level of control of the relevant items to the relevant destinations. **Where deemed necessary, Member States [...] can provide guidance to exporters regarding the application of general authorisations. Member States can also introduce national general export authorisations for low-risk exports where they consider it necessary.** An [...] authorisation for large projects should also be introduced to adapt licensing conditions to the [...] **particular** needs of industry.

**(15a) The Commission, in close consultations with the Member States and stakeholders, should develop guidelines and/or recommendations for best practices to support practical applications of controls. In the preparation of the guidelines and/or recommendations for best practice, the information needs of SMEs should be duly taken into consideration.**

(16) Common lists of dual-use items, destinations and guidelines are essential elements for an effective export control regime.

**(16a) Member States establishing national control lists pursuant to this regulation should inform the Commission and the other Member States of such lists. The Member States should also inform the Commission and the other Member States of all their decisions to refuse an authorisation for an export for which an authorisation is required on the basis of a national control list.**

(17) [...] *Moved to recital 18*

(18) In order to allow for a swift Union response to changing circumstances as regards the assessment of the sensitivity of exports under Union general export authorisations as well as technological and commercial developments, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending [...] Annex I, Annex II [...] and Annex IV to this Regulation. **Decisions to update the common list of dual-use items subject to export controls in Annex I should be in conformity with the obligations and commitments that Member States [...] or the Union have accepted as members of the relevant international non-proliferation [...] agreements and multilateral export control regimes [...], or by ratification of relevant international treaties. Decisions to update the common list of dual-use items subject to export controls in Annex IV should be made in consideration of the public policy and public security interests of the Member States under Article 36 of the Treaty on the Functioning of the European Union. Decisions to update the common lists of items and destinations set out in Sections A to H of Annex II should be made in consideration of the assessment criteria set out in this Regulation.** It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council [...] receive all documents at the same time as Member States' experts, and their experts systematically [...] have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(18a) **The Commission should publish in all EU languages the updates to Annex I through delegated acts.**

(18b) **The Commission should publish and keep updated in all EU languages a compilation of national control lists in force in the Member States.**

- (19) National provisions and decisions affecting exports of dual-use items should be taken in the framework of the common commercial policy, and in particular Regulation (EU) 2015/479 of the European Parliament and of the Council<sup>5</sup>. Appropriate exchange of information and consultations on national provisions and decisions should ensure the effective and consistent application of controls throughout the **customs territory of the Union**.
- (20) The existence of a common control system is a prerequisite for establishing the free movement of dual-use items inside the **customs territory of the Union**.
- (21) Pursuant to and within the limits of Article 36 of the Treaty on the Functioning of the European Union and **in view of international obligations undertaken** [...], Member States retain the right to carry out controls on transfers of certain dual-use items within the **customs territory of the Union** in order to safeguard public policy or public security. [...] The list of items subject to intra-Union transfer controls in [...] Annex IV should be periodically reviewed in light of **the further evolution of the underlying international obligations, taking into account** technological and commercial developments [...] as regards the assessment of the sensitivity of transfers.
- (22) On 22 September 1998 the Member States and the Commission signed Protocols additional to the respective safeguards agreements between the Member States, the European Atomic Energy Community and the International Atomic Energy Agency, which, among other measures, oblige the Member States to provide information on transfers of specified equipment and non-nuclear material. Intra-Union transfer controls should allow the Member States and the Union to fulfil their obligations under these agreements.

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<sup>5</sup> Regulation (EU) 2015/479 of the European Parliament and of the Council on common rules for exports (OJ L 83, 27.03.2015, p. 34).

(23) [...] **In order** to achieve a uniform and consistent application of controls throughout the [...] Union [...], it is [...] appropriate [...] to broaden the scope of consultation and information exchange between the Member States and the Commission, and to introduce tools to support the development of a common export control network throughout the [...] Union, such as electronic licensing procedures, technical expert groups and the setting up of an enforcement coordination mechanism. [...] **It is in particular important to ensure that exporters, brokers, suppliers of technical assistance and other relevant stakeholders concerned by this Regulation, including industry and civil society organisations, are consulted, where appropriate, by the Dual-Use Coordination Group and the technical expert groups.**

**(23a) While customs authorities share certain information with other customs authorities using risk management system in accordance with Union customs rules, it is also appropriate to ensure close cooperation between licensing and customs authorities.**

(24) It is appropriate to clarify that, to the extent that it concerns personal data, processing and exchange of information should comply with the applicable rules on **the protection of natural persons with regard to the processing** [...] of personal data **and on the free movement of such data** in accordance with the rules laid down in **Regulation 2016/679** [...] of the European Parliament and of the Council and Regulation (EC) No 45/2001 of the European Parliament and of the Council.

- (24a) **Member States and the Commission should take all necessary measures to ensure the protection of confidential information in compliance with, in particular, Commission Decision (EU, Euratom) 2015/443<sup>6</sup>, Commission Decision (EU, Euratom) 2015/444<sup>7</sup> and the Agreement between the Member States of the European Union, meeting within the Council, regarding the protection of classified information exchanged in the interests of the European Union<sup>8</sup>. This includes, in particular, the obligation not to downgrade or declassify classified information without the prior written consent of the originator<sup>9</sup>. Any non-classified sensitive information or information which is provided on a confidential basis should be handled as such by the authorities.**
- (25) Outreach to the private sector, **in particular to SMEs**, and transparency are essential elements for an effective export control regime. It is therefore appropriate to provide for the continued development of [...] **guidelines**, where necessary, to support the application of this Regulation and for the publication of an **EU** annual report on the implementation of controls. [...]
- (25a) [...] **The annual report should include relevant information on the licensing and enforcement of controls under this Regulation, with due respect to the need to ensure the protection of the confidentiality of certain data, in particular where the publication of licensing data could affect national security concerns raised by Member States or jeopardise commercial confidentiality and allow non-EU suppliers to undercut restrictive licensing decisions by Member States.**
- (26) In order to ensure that this Regulation is properly applied, each Member State should take measures giving the competent authorities appropriate powers.

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<sup>6</sup> Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on security in the Commission (OJ L 72, 17.3.2015, p. 41)

<sup>7</sup> Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53)

<sup>8</sup> OJ C 202, 8.7.2011, p. 13

<sup>9</sup> [...]

- (27) Each Member State should **in accordance with the EU WMD Strategy** determine effective, proportionate and dissuasive penalties applicable in the event of breach of the provisions of this Regulation. It is also appropriate to introduce provisions to [...] support effective enforcement of controls, **inter alia, through an Enforcement Coordination Mechanism.**
- (28) [...] **The** Union Customs Code [...] lays down, among other things, provisions relating to the export and re-export of goods. Nothing in this Regulation constrains any powers under and pursuant to the Union Customs Code and its implementing provisions.
- (29) Export controls [...] **contribute to** international security and **have an impact on** trade with third countries and it is therefore appropriate to develop dialogue and cooperation with third countries in order to support a global level-playing field [...] and enhance international security. [...] **In particular, Member States and the Commission should enhance their [...] contribution to the activities of multilateral export control regimes and support their efforts in developing robust export controls as a model for international best practice and a global basis and an important tool for ensuring international peace and stability. Contributions should be made when a new risk has been identified by all Member States in the field of cyber surveillance items in order to ensure a multilateral level playing field.**
- (30) [...] This Regulation [...] **applies** without prejudice to the Commission Delegated Decision of 15 September 2015<sup>10</sup> supplementing Decision No 1104/2011/EU of the European Parliament and of the Council, which establishes specific rules for the control of the export of items for the Public Regulated Service (PRS) under the Galileo Programme.
- (31) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union [...].

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<sup>10</sup> C(2015)6123 final.

HAVE ADOPTED THIS REGULATION:

## CHAPTER I

### SUBJECT AND DEFINITIONS

#### *Article 1*

This Regulation sets up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items.

#### *Article 2*

For the purposes of this Regulation:

1. 'dual-use items' means items, including software and technology, which can be used for both civil and military purposes, and shall include [...] items which can be used for the design, development, production or use of nuclear, chemical **or** biological weapons **or** their means of delivery, including all **items** which can be used for both non-explosive uses and assisting in any way in the manufacture of nuclear weapons or other nuclear explosive devices; [...]
2. 'export' means:
  - (a) an export procedure within the meaning of Article 269 of the Union Customs Code;
  - (b) a re-export within the meaning of Article **270** of the Union Customs Code; **a re-export also occurs if, during a transit through the customs territory of the Union according to Article 2.10, an exit summary declaration has to be lodged because the final destination of the items has been changed;**
  - (c) **an** outward processing procedure within the meaning of Article 259 of the Union Customs Code; **or**

- (d) transmission of software or technology by electronic media, including by fax, telephone, electronic mail or any other electronic means **to a destination outside the customs territory of the Union; it includes making available in an electronic form such software and technology** to legal **or** natural persons **or** partnerships outside the customs territory of the Union. **Export also applies to oral transmission of technology when the technology is described over a voice transmission medium.**

3. 'exporter' means:

- (a) **any natural or legal person or partnership [...]** who, at the time when the **export declaration or the re-export declaration or an exit summary** declaration is accepted, holds the contract with the consignee in the third country and has the power for determining the sending of the items out of the customs territory of the Union. If no export contract has been concluded **or if the holder of the contract does not act on its own behalf**, exporter means the person who has the power for determining the sending of the items out of the customs territory of the Union; **or**
- (b) **any natural or legal person or partnership** which decides to transmit [...] software or technology by electronic media, including by fax, telephone, electronic mail or by any other electronic means **to a destination [...]** outside the **customs territory of the Union or to make available in an electronic form such software and technology to legal or natural persons or partnerships outside the customs territory of the Union.**

Where the benefit of a right to dispose of the dual-use item belongs to a person resident or established outside the **customs territory of the Union** pursuant to the contract on which the export is based, the exporter shall be considered to be the contracting party resident or established in the **customs territory of the Union**.

(c) **if (a) or (b) are not applicable**, [...] any natural person carrying the **dual use items** to be exported where these **dual use items** are contained in the person's personal baggage within the meaning of Article 1 no. 19(a) of Regulation (EU) 2015/2446 of 28 July 2015.

4. 'export declaration' means the act whereby **any natural or legal person or partnership** indicates in the prescribed form and manner the wish to **place** dual-use items specified in point 1 **under an export procedure**;
5. 're-export declaration' means the act within the meaning of Article 5(13) of the Union Customs Code;
- 5a. '**exit summary declaration**' means the act within the meaning of Article 5(10) of the **Union Customs Code**;
6. 'brokering services' means:
  - (a) the negotiation or arrangement of transactions for the purchase, sale or supply of dual-use items from a third country to any other third country, or
  - (b) the selling or buying of dual-use items that are located in third countries for their transfer to another third country.

For the purposes of this Regulation the sole provision of ancillary services is excluded from this definition. Ancillary services are transportation, financial services, insurance or re-insurance, or general advertising or promotion;

7. 'broker' means any natural or legal person or partnership [...] that carries out brokering services from the **customs territory of the** Union into the territory of a third country;
8. 'technical assistance' means any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services, including **by electronic means as well as by telephone or any other** verbal forms of assistance;
9. 'supplier of technical assistance' means:

- (a) any natural or legal person or partnership [...] which supplies technical assistance from the **customs territory of the Union** into the territory of a third country;
  - (b) **any natural or legal person or partnership resident or established in a Member State of the Union [...] which supplies technical assistance within the territory of a third country; or**
  - (c) **any natural or legal person or partnership resident or established in a Member State of the Union which supplies technical assistance towards a resident of a third country temporarily present in the customs territory of the Union.**
10. ‘transit’ means a transport of non-Union dual-use items entering and passing through the customs territory of the Union with a destination outside the **customs territory of the Union**. **These are** items:
- (a) which are placed under **an** external transit procedure **according to Article 226 of the Union Customs Code** and only pass through the customs territory of the Union;
  - (b) which are trans-shipped within, or directly re-exported from, a free zone;
  - (c) which are in temporary storage and are directly re-exported from a temporary storage facility; **or**
  - (d) which were brought into the customs territory of the Union on the same vessel or aircraft that will take them out of that territory without unloading.
11. ‘individual export authorisation’ means an authorisation granted to one specific exporter for one end user or consignee in a third country and covering one or more dual-use items;
12. ‘global export authorisation’ means an authorisation granted to one specific exporter in respect of a type or category of dual-use items which may be valid for exports to one or more specified end users **and/or** in one or more specified third countries;

13. 'large project authorisation' means **an individual export authorisation or** a global export authorisation granted to one specific exporter, in respect of a type or category of dual-use items which may be valid for exports to one or more specified end users in one or more specified third countries for the **purpose** [...] of a specified **large scale** project [...];
14. 'Union general export authorisation' means an export authorisation for exports to certain countries of destination available to all exporters who respect its conditions and requirements for use as listed in Sections A to **H** of Annex II;
- 15. *deleted ('Union general transfer authorisation')***
16. 'national general export authorisation' means an export authorisation defined by national legislation in conformity with Article 10(6) and Section C of Annex III;
17. 'customs territory of the Union' means the territory within the meaning of Article 4 of the Union Customs Code;
18. 'non-Union dual-use items' means items that have the status of non-Union goods within the meaning of Article 5(24) of the Union Customs Code;
19. 'arms embargo' means an arms embargo imposed by a decision or a common position adopted by the Council or a decision of the Organisation for Security and Cooperation in Europe (OSCE) or an arms embargo imposed by a binding resolution of the Security Council of the United Nations;
- 20. *deleted ('military end-use')***
- 21. 'cyber-surveillance items' mean dual-use items specially designed to enable the covert surveillance of natural persons by monitoring, extracting, collecting or analysing data from information and telecommunication systems;**

22. ‘internal compliance programme’ (**ICP**) means **ongoing** effective, appropriate and proportionate [...] **policies** and procedures [...] **adopted** by exporters to [...] **facilitate** compliance with the provisions **and objectives of this Regulation** and with the terms and conditions of the authorisations [...] **implemented under** this Regulation, **including, inter alia, [...] due diligence measures [...] assessing** risks related to the export of the items to end users and end uses.
23. *deleted (‘terrorist act’)*
24. **‘essentially identical transaction’ means a transaction concerning items with essentially identical parameters or technical characteristics to the same end user or consignee as another transaction;**

## CHAPTER II

### SCOPE

#### *Article 3*

1. An authorisation shall be required for the export of the dual-use items listed in Annex I.
2. Pursuant to Articles 4, 4a, [...] **8** or **8a**, an authorisation may also be required for the export to all or certain destinations of certain dual-use items not listed in Annex I.

#### *Article 4*

1. An authorisation shall be required for the export of dual-use items not listed in Annex I if the exporter has been informed by the competent authority that the items in question are or may be intended, in their entirety or in part:

- (a) for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons;
  - (b) for a military end-use if the purchasing country or country of destination is subject to an arms embargo. **For the purposes of this subparagraph, ‘military end-use’ means:**
    - (i) **incorporation into military items listed in the military list of Member States;**
    - (ii) **use of production, test or analytical equipment and components therefor, for the development, production or maintenance of military items listed in the abovementioned list; or**
    - (iii) **use of any unfinished products in a plant for the production of military items listed in the abovementioned list.**
  - (c) for use as parts or components of military items listed in the national military list that have been exported from the territory of a Member State without authorisation or in violation of an authorisation prescribed by national legislation of that Member State;
  - (d) [...]
  - (e) [...]
2. If an exporter [...] is aware that dual-use items which he proposes to export, not listed in Annex I, are intended, in their entirety or in part, for any of the uses referred to in paragraph 1, he **shall** notify the competent authority, which **shall** decide whether or not [...] to make the export concerned subject to authorisation.

3. **A Member State may adopt or maintain national legislation imposing an authorisation requirement on the export of dual-use items not listed in Annex I if the exporter has grounds for suspecting that those items are or may be intended, in their entirety or in part, for any of the uses referred to in paragraph 1. [...]**
4. **[...] The Member State which imposes an authorisation requirement [...] pursuant to paragraphs 1, 2, or 3 [...] shall immediately inform its customs administration and other relevant national authorities [...] and [...] provide the other Member States and the Commission [...] with [...] relevant information on the authorisation requirement in question, in particular [...] as regards the items and end-users concerned, unless it considers it not appropriate in light of the nature of the transaction or the sensitivity of the information concerned.**
5. The other Member States shall give all due consideration to this information **received pursuant to paragraph 4** and shall [...] inform their customs administrations and other relevant national authorities [...].
6. **In order to allow for an examination of all valid denials by the Member States**, the provisions of Article 15(1), (2) and (5) to (7) shall apply to cases concerning dual-use items not listed in Annex I.
- [...]
7. **All information exchange required pursuant to this Article shall take place in accordance with the legal requirements concerning the protection of personal information, commercial sensitive information or protected defense, foreign policy or national security information. It shall be made via secure electronic means including the system referred to in Article 20(5).**
8. This Regulation is without prejudice to the right of Member States to take national measures under Article 10 of Regulation (EU) 2015/479.

Article 4a

1. An authorisation shall be required for the export of cyber-surveillance items not listed in Annex I if the exporter has been informed by the competent authority that the items in question are or may be intended, in their entirety or in part, for use in connection with internal repression and/or the commission of serious violations of international human rights and international humanitarian law.
2. If an exporter is aware according to its due diligence findings that cyber-surveillance items which it proposes to export, not listed in Annex I, are intended, in their entirety or in part, for any of the uses referred to in paragraph 1, it shall notify the competent authority, which shall decide whether or not to make the export concerned subject to authorisation. The Commission and the Council shall make available guidelines for exporters according to article 24(1).
3. A Member State may adopt or maintain national legislation imposing an authorisation requirement on the export of cyber-surveillance items not listed in Annex I if the exporter has grounds for suspecting that those items are or may be intended, in their entirety or in part, for any of the uses referred to in paragraph 1.
4. The Member State which imposes an authorisation requirement pursuant to paragraphs 1, 2 or 3 shall immediately inform its customs administration and other relevant national authorities and shall provide the other Member States and the Commission with relevant information on the authorisation requirement in question, in particular as regards the items and entities concerned, unless it considers it not appropriate in light of the nature of the transaction or the sensitivity of the information concerned.
5. The other Member States shall give due consideration to the information received pursuant to paragraph 4 and shall review it in the light of the criteria set out in paragraph 1 within 30 working days as well as inform their customs administration and other relevant national authorities. In exceptional cases, any Member State may request the extension of the 30 day period. However, the extension may not exceed 30 working days.

6. Where all Member States notify the other Member States and the Commission that an authorisation requirement should be imposed for essentially identical transactions, the Commission shall publish in the C series of the Official Journal of the European Union information regarding the cyber-surveillance items and, where appropriate, destinations subject to authorisation requirements [...] as notified by the Member States for this purpose.
7. The Member States shall review the information published pursuant to paragraph 6 at least annually on the basis of relevant information and analyses provided by the Commission. Where all Member States notify the other Member States and the Commission that the publication of an authorisation requirement should be amended or renewed, the Commission shall promptly amend or renew accordingly the information published pursuant to paragraph 6 in the C series of the Official Journal of the European Union.
8. In order to allow for an examination of all valid denials by the Member States, the provisions of Article 15(1), (2) and (5) to (7) shall apply to cases concerning cyber-surveillance items not listed in Annex I.
9. All information exchange required pursuant to this Article shall take place in accordance with the legal requirements concerning the protection of personal information, commercial sensitive information or protected defense, foreign policy or national security information. It shall be made via secure electronic means including the system referred to in Article 20(5).
10. Member States shall consider supporting the inclusion of items published pursuant to paragraph 6 in the appropriate international non-proliferation regimes or export control arrangements with a view to extending controls. The Commission shall provide analyses of the relevant data gathered pursuant to Articles 20(2) and 24(2).
11. This Regulation is without prejudice to the right of Member States to take national measures under Article 10 of Regulation (EU) 2015/479.

## Article 5

1. An authorisation shall be required for brokering services of dual-use items **listed in Annex I** if the broker has been informed by the competent authority that the items in question are or may be intended, in their entirety or in part, for any of the uses referred to in Article 4(1).
2. If a broker is aware that the dual-use items **listed in Annex I** for which he proposes brokering services are intended, in their entirety or in part, for any of the uses referred to in Article 4(1), he **shall** notify the competent authority which **shall** decide whether or not [...] to make such brokering services subject to authorisation.
3. **A Member State may extend the application of paragraph 1 to non-listed dual-use items.**
4. **A Member State may adopt or maintain national legislation imposing an authorisation requirement on the brokering of dual-use items, if the broker has grounds for suspecting that these items are or may be intended for any of the uses referred to in Article 4(1).**
5. **The provisions of Article 8(2), (3) and (4) shall apply to the national measures referred to in paragraphs 3 and 4 of this Article.**

## Article 6

1. The transit of non-Union dual-use items **listed in Annex I** may be prohibited at any time by the competent authority of the Member State where the items are situated if the items are or may be intended, in their entirety or in part, for uses referred to in Article 4(1).
2. Before deciding whether or not to prohibit a transit the competent authority may impose in individual cases an authorisation requirement for the specific transit of dual-use items **listed in Annex I** if the items are or may be intended, in their entirety or in part, for uses referred to in Article 4(1). **In case the transit takes place through the territory of multiple Member States, the competent authority of each affected Member State shall be able to prohibit such transit through its territory.**

The competent authority may impose the authorisation requirement on **the natural or legal person or partnership who holds the contract with the consignee in the third country**

**and has the power for determining the sending of the item passing through the customs territory of the Union.**

**If the natural or legal person or partnership is not resident or established in the customs territory of the Union,** the competent authority may impose the authorisation requirement on:

- (a) the declarant within the meaning of Article 5(15) of the Union Customs Code;
- (b) the carrier within the meaning of Article 5(40) of the Union Customs Code; **or**
- (c) the natural person carrying the [...] **dual use items in transit** where these **dual use items** are contained in the personal baggage **of this person** [...].

- 3. A Member State may extend the application of paragraph 1 to non-listed dual-use items.**
- 4. The provisions of Article 8(2), (3) and (4) shall apply to the national measures referred to in paragraph 3 of this Article.**

#### *Article 7*

- 1. An authorisation shall be required for the provision [...] of technical assistance related to dual-use items **listed in Annex I** [...] if the supplier of technical assistance has been informed by the competent authority that the items in question are or may be intended, in their entirety or in part, for any of the uses referred to in Article 4(1).
- 2. If a supplier of technical assistance is aware that the dual-use items **listed in Annex I** for which he proposes to supply technical assistance are intended, in their entirety or in part, for any of the uses referred to in Article 4(1), he **shall** notify the competent authority which **shall** decide whether or not [...] to make such technical assistance subject to authorisation.
- 3. Paragraphs 1 and 2 shall not apply if the technical assistance:**
  - (a) **is supplied within or into the territory of a country listed in Part 2 of Section A of Annex II, or towards a resident of a country listed in Part 2 of Section A of Annex II;**

- (b) takes the form of transferring information that is in the public domain or basic scientific research within the meaning of the General Technology Note or of the Nuclear Technology Note of Annex I;
- (c) is supplied by authorities or agencies of a Member State in the context of their official tasks;
- (d) is supplied for the armed forces of a Member State on the basis of the tasks assigned to them;
- (e) is supplied for a purpose which is cited in the exceptions for items of the Missile Technology Control Regime (MTCR technology) in Annex IV; or
- (f) is the minimum necessary for the installation, operation, maintenance (checking) or repair of those items for which an export authorisation has been issued.
4. A Member State may extend the application of paragraph 1 to non-listed dual-use items.
5. A Member State may adopt or maintain national legislation imposing an authorisation requirement on the provision of technical assistance if the supplier of technical assistance has grounds for suspecting that the dual use items for which he proposes to supply technical assistance are or may be intended for any of the uses referred to in Article 4(1).
6. The provisions of Article 8(2), (3) and (4) shall apply to the national measures referred to in paragraphs 4 and 5 of this Article.

#### *Article 8*

1. A Member State may prohibit or impose an authorisation requirement on the export of dual-use items not listed in Annex I for reasons of public security, **including the prevention of acts of terrorism**, or for human rights considerations.
2. Member States shall notify the Commission and the other Member States of any measures adopted pursuant to paragraph 1 without delay after their adoption and indicate the precise reasons for the measures. **If the measure is the establishment of a national control list,**

**Member States shall also inform the Commission and the other Member States of the description of the controlled items.**

3. Member States shall also **without delay** notify the Commission and the other Member States of any modifications to measures adopted pursuant to paragraph 1, **including any modifications to the national control lists.**
4. The Commission shall publish the measures notified to it pursuant to paragraphs 2 and 3 in the C series of the *Official Journal of the European Union*. **With regard to national control lists, the Commission shall publish separately and without delay in all EU languages a compilation of national control lists in force in the Member States. The Commission shall, upon notification by a Member State of any modifications to its national control list, without delay publish an update to the compilation of national control lists in force in the Member States.**

#### *Article 8a*

1. **An authorisation shall be required for the export of dual use items not listed in Annex I if another Member State requires an authorisation for the export of these items on the basis of a national control list of items adopted by that Member State pursuant to Article 8 and published by the Commission pursuant to article 8(4), and if the exporter has been informed by the competent authority that the items in question are or may be intended, in their entirety or in part, for uses of concern with respect to public security, including the prevention of acts of terrorism, or to human rights considerations.**
2. **A Member State which refuses an authorisation required in accordance with paragraph 1 of this Article, shall also inform the Commission and other Member States of such decision.**

3. **A Member State which imposes an authorisation requirement, in application of paragraph 1 on the export of a dual-use item not listed in Annex I, shall without delay inform its customs administration and other relevant national authorities about the authorisation requirement and, where appropriate, provide the other Member States and the Commission with the relevant information, in particular concerning the items and end-users concerned. The other Member States shall give all due consideration to this information and shall inform their customs administrations and other relevant national authorities.**

*Article 9*

1. An authorisation shall be required for intra-Union transfers of dual-use items listed in [...] Annex IV. **Dual use items listed in Part 2 of Annex IV shall not be covered by a general authorisation.**
2. A Member State may impose an authorisation requirement for the transfer of other dual-use items from its territory to another Member State in cases where at the time of transfer:
  - the operator or the **competent authority** [...] knows that the final destination of the items concerned is outside the **customs territory of the Union**, and
  - export of those items to that final destination is subject to an authorisation requirement pursuant to Articles 3, 4 or 8 in the Member State from which the items are to be transferred, and such export directly from its territory is not authorised by a general authorisation or a global authorisation, and
  - no processing or working as defined in Article 60(2) of the Union Customs Code is to be performed on the items in the Member State to which they are to be transferred.
3. **The transfer authorisation shall be applied for in the Member State from which the dual-use items are to be transferred.**

4. **In cases where the subsequent export of the dual-use items has already been accepted, in the consultation procedures set out in Article 13, by the Member State from which the items are to be transferred, the transfer authorisation shall be issued to the operator immediately, unless the circumstances have substantially changed.**
5. A Member State which adopts legislation imposing a requirement **according to paragraph 2** shall inform the Commission and the other Member States of the measures it has taken without delay. The Commission shall publish this information in the C series of the *Official Journal of the European Union*.
6. The measures pursuant to paragraphs 1 and 2 shall not involve the application of internal frontier controls within the **customs territory of the** Union, but solely controls which are performed as part of the normal control procedures applied in a non-discriminatory fashion throughout the **customs** territory of the Union.
7. Application of the measures pursuant to paragraphs 1 and 2 may in no case result in transfers from one Member State to another being subject to more restrictive conditions than those imposed for exports of the same items to third countries.
8. A Member State may, by national legislation, require that, for any intra-Union transfers from that Member State of items listed in Category 5, Part 2 [...] of Annex I which are not listed in [...] Annex IV, additional information concerning those items shall be provided to the competent authority of that Member State.
9. The relevant commercial documents relating to intra-Union transfers of dual-use items listed in Annex I shall indicate clearly that those items are subject to controls if exported from the **customs territory of the** Union. Relevant commercial documents include, in particular, any sales contract, order confirmation, invoice or dispatch note.

### CHAPTER III

## EXPORT AUTHORISATION AND AUTHORISATION FOR BROKERING SERVICES AND TECHNICAL ASSISTANCE [...]

### *Article 10*

1. The following **types of** authorisations for export **may be issued or** are established under this Regulation:

- (a) individual export authorisation;
- (b) global export authorisation [...];
- (c) national general export authorisation;
- (d) Union general export authorisations for exports **of certain items to certain destinations under specific conditions and requirements for use** as set out in Sections A to H of Annex II.

[...] The authorisations shall be valid throughout the **customs territory of the** Union.

2. [...] **Individual and global export authorisations under this Regulation shall be granted by the competent authority of the Member State where the exporter is resident or established.**

**Without prejudice to Article 2.3, where the exporter is not resident or established on the customs territory of the Union, individual export authorisations shall be granted under this Regulation by the competent authority of the Member State where the dual use items are located. [...]**

All individual and global export authorisations shall be issued, whenever possible, by electronic means on forms containing at least all the elements and in the order set out in the models which appear in Section A of Annex III.

3. Individual export authorisations and global export authorisations shall be valid for [...] **up to two years, unless decided differently by the competent authority.**

**Large project authorisations** [...] shall be valid for a duration to be determined by the competent authority, **but no longer than four years, except in duly justified circumstances based on the duration of the project.**

4. Exporters shall supply the competent authority with all relevant information required for their applications for individual and global export authorisation so as to provide complete information in particular on the end user, the country of destination and the end use of the item exported.

**Individual export** authorisations **shall be** subject [...] to an end-use statement. **The competent authority may exempt certain applications from the obligation of providing an end-use statement. Global export authorisations may be subject to an end-use statement if appropriate.**

**Exporters using global export authorisations shall [...] implement an ICP, unless that is considered unnecessary by the competent authority due to other information it has taken into account when processing the application for a global export authorisation submitted by the exporter.**

**Reporting and ICP requirements relating to the use of global export authorisations shall be-defined by Member States. [...]**

At the request of exporters, global export authorisations that contain quantitative limitations shall be split.

5. The competent authorities of the Member States shall process requests for individual or global authorisations within a period of time to be determined by national law or practice. [...]
6. National general export authorisations shall:
  - (a) exclude from their scope items listed in Section I of Annex II.
  - (b) be defined by national law or practice. They may be used by all exporters, resident or established in the Member State issuing these authorisations, if they meet the requirements set in this Regulation and in the complementary national legislation. They shall be issued in accordance with the indications set out in Section C of Annex III.  
[... moved below subpara(c)]

- (c) not be used if the exporter has been informed by the competent authority that the items in question are or may be intended, in their entirety or in part, for any of the uses referred to in Article 4(1), or if the exporter is aware that the items are intended for the abovementioned uses.

**National general export authorisations may also apply to items and destinations listed in Annex II Sections A to H.**

[...]

**Member States shall notify the Commission immediately of any national general export authorisations issued or modified. The Commission shall publish these notifications in the C series of the *Official Journal of the European Union*;**

7. The competent authority of the Member State where the exporter is **resident or** established **may** prohibit the exporter from using **Union general export authorisations** if there is reasonable suspicion about his ability to comply with such authorisation or with a provision of the export control legislation.

The competent authorities of the Member States shall exchange information on exporters **prohibited from using** [...] a Union general export authorisation, unless they determine that the exporter will not attempt to export dual-use items through another Member State. The system referred to in Article 20[...] (5) shall be used for this purpose.

*Article 11*

1. Authorisations for brokering services and technical assistance under this Regulation shall be granted by the competent authority of the Member State where the broker or the supplier of technical assistance is resident or established. Where the broker or the supplier of technical assistance is not resident or established on the **customs** territory of the Union, authorisations for brokering services and technical assistance under this Regulation shall be granted by [...] the competent authority of the Member State [...] from where the brokering services or technical assistance will be supplied.

2. Authorisations for brokering services [...] shall be granted for a set quantity of specific items. The location of the items in the originating third country, the end-user and its exact location **shall** be clearly identified.

**Authorisations for technical assistance shall clearly identify the end-user and its exact location.**

The authorisations shall be valid throughout the **customs territory of the** Union.

3. Brokers and suppliers of technical assistance shall supply the competent authority with all relevant information required for their application for authorisation under this Regulation, in particular details of the location of the dual-use items, a clear description of the items and the quantity involved, third parties involved in the transaction, the [...] country of destination, the end-user in that country and its exact location.
4. The competent authorities of the Member States shall process requests for authorisations for brokering services and technical assistance within a period of time **to be determined by national law or practice.** [...]
5. All authorisations for brokering services and technical assistance shall be issued, whenever possible, by electronic means on forms containing at least all the elements and in the order set out in the models which appear in Section B of Annex III.

#### *Article 12 –Deleted*

[...]

#### *Article 13*

1. If the dual-use items in respect of which an application has been made for an individual export authorisation to a destination not listed in **Part 2 of** Section A of Annex II or to any destination in the case of dual-use items listed in [...] Annex IV are or will be located in one or more Member States other than the one where the application has been made, that fact shall be indicated in the application. The competent authority of the Member State to which the application for authorisation has been made shall immediately consult the competent authorities of the Member State or States in question and provide the relevant information.

**This consultation may be carried out using the electronic system mentioned in Article 20[...] (5).** The Member State or States consulted shall make known within 10 working days any objections it or they may have to the granting of such an authorisation, which shall bind the Member State in which the application has been made.

If no objections are received within 10 working days, the Member State or States consulted shall be regarded as having no objection.

In exceptional cases, any Member State consulted may request the extension of the 10-day period. However, the extension may not exceed 30 working days.

2. If an export might prejudice its essential security interests, a Member State may request another Member State not to grant an export authorisation or, if such authorisation has been granted, request its annulment, suspension, modification or revocation. The Member State receiving such a request shall immediately engage in consultations of a non-binding nature with the requesting Member State, to be terminated within 10 working days. In case the requested Member State decides to grant the authorisation, this should be notified to the Commission and other Member States using the electronic system mentioned in Article 20[...] (5).

#### *Article 14*

1. In deciding whether or not to grant an [...] authorisation [...] or to prohibit a transit **under this Regulation**, [...] the Member States shall take into account **all relevant considerations including**:
  - (a) Union and Member States' international obligations and commitments, in particular the obligations and commitments they have each accepted as members of the relevant international non-proliferation regimes and export control arrangements, or by ratification of relevant international treaties;
  - (b) their obligations under sanctions imposed by a decision or a common position adopted by the Council or by a decision of the OSCE or by a binding resolution of the Security Council of the United Nations; [...]

- (c) considerations of national foreign and security policy, including [...] **those covered by Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment;**
- (d) considerations about intended end use and the risk of diversion. [...]

~~2.~~ [...] (*moved to article 21.4*)

- 2. **In addition to the criteria set in paragraph 1, when assessing an application for a global export authorisation Member States shall take into consideration the implementation by the exporter of an ICP.**

#### *Article 15*

- 1. The competent authority [...], acting in accordance with this Regulation, may refuse to grant an export authorisation and may annul, suspend, modify or revoke an export authorisation which it has already granted. Where **the competent authority** refuses, annuls, suspends, substantially limits or revokes an export authorisation or when **it** has determined that the intended export is not to be authorised, **it** shall notify the competent authorities of the other Member States and the Commission thereof and share the relevant information with them. In case the competent authority of a Member State has suspended an export authorisation, the final assessment shall be communicated to the competent authorities of the other Member States and the Commission at the end of the period of suspension.
- 2. The competent authorities of the Member States shall review denials of authorisations notified under paragraph 1 within three years of their notification and revoke them, amend them or renew them. The competent authorities of the Member States **shall** notify the results of the review to the competent authorities of the other Member States and the Commission as soon as possible. Denials which are not revoked shall remain valid **and shall continue to be reviewed every three years. At the third review, the Member State concerned shall be required to explain the reasoning for maintaining such denial.**
- 3. The competent authority [...] shall notify the **competent authorities of the other** Member States and the Commission of their decisions to prohibit a transit of dual-use items taken under Article 6 without delay. These notifications **shall** contain all relevant information including the classification of the item, its technical parameters, the country of destination and the end user.

4. Paragraphs 1 and 2 shall also apply to authorisations for brokering services and technical assistance **referred to in Article 11**.
5. Before the competent authority of a Member State **decides whether or not to grant an authorisation or to prohibit a transit under this Regulation [...]**, it shall examine all valid denials or decisions to prohibit a transit of dual-use items listed in Annex I taken under this Regulation to ascertain whether an authorisation or a transit has been denied by the competent authorities of another Member State or States for an essentially identical transaction [...]. It shall first consult the competent authorities of the Member State or States which issued such denial(s) or decisions to prohibit the transit as provided for in paragraphs 1, 3 and 4.

**The competent authorities of the Member State or States consulted shall make known within 10 working days whether or not they consider the transaction essentially identical. If no reaction has been received within 10 working days, the Member State or States consulted shall be regarded as not considering the transaction essentially identical.**

**If more information is required to correctly evaluate the transaction in question, the competent authorities of the Member States concerned shall agree on the extension of the 10-day period. However, the extension may not exceed 30 working days.**

If following such consultation the competent authority [...] decides to grant an authorisation or allow the transit, it shall notify the competent authorities of the other Member States and the Commission, providing all relevant information to explain the decision.

6. All notifications required pursuant to this Article shall be made via secure electronic means including the system referred to in Article 20[...]**(5)**.
7. All information shared in accordance with the provisions of this Article shall be in compliance with the provisions of Article 20[...]**(6)** concerning the confidentiality of such information.

## CHAPTER IV

### AMENDMENT OF LISTS OF DUAL-USE ITEMS AND DESTINATIONS

#### Article 15a

1. The Commission **is** empowered to adopt delegated acts in [...] **accordance with article 16 concerning the amendment of** the lists of dual-use items set out in Annex I and [...] Annex IV, as follows:
  - (a) The list of dual-use items set out in [...] Annex I shall be amended in conformity with the relevant obligations and commitments, and any modification thereof, that Member States and the Union have accepted as members of the international non-proliferation regimes and export control arrangements, or by ratification of relevant international treaties. Where the amendment of [...] Annex I concerns dual-use items which are also listed in Annexes II **or** IV, [...] those Annexes shall be amended accordingly. [...]
  - (b) [...] **deleted**
  - (c) [...] **deleted**
2. The Commission **is** empowered to adopt delegated acts **in accordance with Article 16** to amend Annex II by [...] removing items [...] **and by adding or removing** destinations from the scope of Union general export authorisations [...] **in consultation with the Dual-Use Coordination Group set up pursuant to Article 21 and taking into consideration obligations and commitments under the relevant non-proliferation regimes and export control arrangements, such as amendments to control lists, as well as relevant geopolitical developments.** Where imperative grounds of urgency require a removal of particular destinations from the scope of a Union general export authorisation, the procedure provided for in Article 17 shall apply to delegated acts adopted pursuant to this paragraph.

## Article 16

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
- ~~2.~~ **[Moved to article 15a]**
  - ~~(a)~~ **[Moved to article 15a]**
  - ~~(b)~~ [...] deleted
  - ~~(c)~~ [...] deleted
- ~~3.~~ **[Moved to article 15a]**
2. The power to adopt delegated acts referred to in [...] Article **15a** shall be conferred on the Commission for a period of five years from ... [the date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in [...] Article **15a** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-Institutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to [...] Article **15a** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

#### *Article 17*

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.
2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in [...] Article 16(6). In such a case, the Commission shall repeal the act [...] **immediately** following the notification of the decision to object by the European Parliament or by the Council.

#### *Article 17a*

**The list of dual-use items set out in Annex IV, which is a subset of Annex I, shall be updated with regard to Article 36 of the Treaty on the Functioning of the European Union, namely the public policy and public security interests of the Member States.**

## CHAPTER V

### CUSTOMS PROCEDURES

#### *Article 18*

1. When completing the formalities for the export of dual-use items at the customs office responsible for handling the export declaration, the exporter shall furnish proof that any necessary export authorisation has been obtained.
2. A translation of any documents furnished as proof into an official language of the Member State where the export declaration is presented may be required of the exporter.
3. Without prejudice to any powers conferred on it under, and pursuant to, the Union Customs Code, a Member State may also, for a period not exceeding the periods referred to in paragraph 4, suspend the process of export from its territory, or, if necessary, otherwise prevent the dual-use items [...] which are **or are not** covered by a valid export authorisation from leaving the Union via its territory, where it:
  - (a) **has grounds for suspicion that**
    - (i) relevant information was not taken into account when the authorisation was granted, or
    - (ii) circumstances have materially changed since the grant of the authorisation, **or**
  - (b) **has relevant information regarding the potential application of measures under Article 4(1).**
4. In the cases referred to in paragraph 3, the competent authority of the Member State which granted the export authorisation **or which may take action pursuant to Article 4(1)** shall be consulted forthwith in order that they may take action pursuant to Article 15(1) **or Article 4(1)**. If such competent authority decides to maintain the authorisation **or not to take action pursuant to Article 4(1)** it shall reply within 10 working days, which, at its request, may be extended to 30 working days in exceptional circumstances. In such case, or if no reply is received within 10 or 30 days, as the case may be, the dual-use items shall be released immediately. The competent authority of the Member State which granted the authorisation shall inform the competent authorities of the other Member States and the Commission.

5. The Commission, in cooperation with the Member States, **may** develop guidance to support interagency cooperation between licensing and customs authorities.

#### *Article 19*

1. Member States may provide that customs formalities for the export of dual-use items may be completed only at customs offices empowered to that end.
2. Member States availing themselves of the option set out in paragraph 1 shall inform the Commission of the duly empowered customs offices. The Commission shall publish the information in the C series of the *Official Journal of the European Union*.

### **CHAPTER VI**

#### **ADMINISTRATIVE COOPERATION, IMPLEMENTATION AND ENFORCEMENT**

#### *Article 19a – Deleted*

[...]

#### *Article 20*

1. Member States shall inform the Commission without delay of the laws, regulations and administrative provisions adopted in implementation of this Regulation, including:
  - (a) a list of the **competent** authorities **of the Member States** empowered to:
    - grant export authorisations for dual-use items;
    - grant authorisations under this Regulation for the provision of brokering services and technical assistance;
    - decide to prohibit the transit of non-Union dual-use items under this Regulation;
  - (b) the measures referred to in Article 22(1).

The Commission shall forward the information to the other Member States and shall publish the information in the C series of the *Official Journal of the European Union*.

2. Member States, in cooperation with the Commission, shall take all appropriate measures to establish direct cooperation and exchange of information between the competent authorities with a view to enhance the efficiency of the Union export control regime and to ensure the consistent and effective implementation and enforcement of control throughout **the customs territory of the Union**. The information exchange may include:
- (a) [...] relevant [...] licensing data, [...] provided for each authorisation issued (e.g. [...] value and types of licence and related destinations, number of users of general authorisations);
  - (b) [...] additional [...] information regarding the application of controls, including information on the application of criteria set out in Art. 14.1, number [...] of operators with ICPs [...] and, where available, data on exports of dual-use items carried out in other Member States;
  - (b1) information regarding the analysis underlying additions or planned additions to national control list pursuant to Article 8;
  - (c) information regarding the enforcement of controls, including risk-based audits, details of exporters deprived of the right to use the national or Union general export authorisations, **and, where available, number of violations, seizures and application of other penalties**;
  - (d) data on sensitive end users, actors involved in suspicious procurement activities, and, where available, routes taken.
3. The exchange of licensing data shall take place at least annually in accordance with guidelines to be drawn up by the Dual Use Coordination Group established under Article 21 and with due consideration to legal requirements concerning the protection of personal information, commercially sensitive information or protected defense, foreign policy or national security information.
- 3a. Member States and the Commission shall regularly examine the implementation of Article 14 based on information submitted pursuant to this Regulation and analyses of such data. All participants of these exchanges shall respect the confidentiality of the discussions.

4. **Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters<sup>11</sup>, and in particular the provisions on the confidentiality of information, shall apply *mutatis mutandis*.**
5. A secure and encrypted system shall be developed by the Commission, in consultation with the Dual-Use Coordination Group set up pursuant to Article 21, to support direct cooperation and exchange of information between the competent authorities of the Member States and, **where appropriate**, the Commission. The system [...] **shall, where feasible**, be connected **by the Commission** to the electronic licensing systems of the competent authorities of the Member States **to the extent necessary for the purpose of facilitating this direct cooperation and exchange of information**. The European Parliament shall be informed about the system's budget, development and functioning.
6. The processing of personal data shall be in accordance with the rules laid down in [...] **Regulation 2016/679** of the European Parliament and of the Council of **27 April 2016** on the protection of [...] **natural persons** with regard to the processing of personal data and on the free movement of such data, and **repealing** Directive 95/46/EC (**General Data Protection Regulation**), as well as **Regulation (EU) 2018/1725** of the European Parliament and of the Council of **23 October 2018** on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and **repealing** Regulation (EC) No 45/2001 and Decision No 1247/2002/EC. [...]

#### *Article 21*

1. A Dual-Use Coordination Group chaired by a representative of the Commission shall be set up. Each Member State shall appoint a representative to this Group. It shall examine any question concerning the application of this Regulation which may be raised either by the chair or by a representative of a Member State.

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<sup>11</sup> OJ L 82, 22.3.1997, p. 1.

2. The [...] Dual-Use Coordination Group shall, whenever it considers it to be necessary, consult exporters, brokers, **suppliers of technical assistance** and other relevant stakeholders concerned by this Regulation.
3. The Dual-Use Coordination Group shall, where appropriate, set up technical expert groups composed of experts from Member States to examine specific issues relating to the implementation of controls, **including issues relating to the updating of the Union control lists in Annex I.** [...] Technical expert groups shall, where appropriate, consult exporters, brokers, **suppliers of technical assistance** and other relevant stakeholders concerned by this Regulation.
4. [...] **The Commission shall support an EU licensing and enforcement capacity-building programme, including by developing, in consultation with the Dual-Use Coordination Group, common training programmes for officials of the Member States.**

#### *Article 22*

1. Each Member State shall take appropriate measures to ensure proper enforcement of all the provisions of this Regulation. In particular, it shall lay down the penalties applicable to infringements of the provisions of this Regulation or of those adopted for its implementation. Those penalties **shall** be effective, proportionate and dissuasive.
2. The Dual-Use Coordination Group shall set up an Enforcement Coordination Mechanism [...] **to support exchange of information and direct cooperation** between competent authorities and enforcement agencies of **the Member States.** [...] **Under the Enforcement Coordination Mechanism, the Member States and the Commission shall exchange relevant information, where available, including on the application, nature and effect of the measures, taken under paragraph 1, on enforcement of best practices and unauthorised exports of dual use items and/or infringements to this regulation and/or relevant national legislation.**

Under the Enforcement Coordination Mechanism, the Member States and the Commission shall also exchange information on [...] best practices of national enforcement authorities regarding risk-based audits, the detection and prosecution of unauthorised exports of dual use items and/or possible other infringements of this regulation and/or relevant national legislation.

Exchange of information under the Enforcement Coordination Mechanism shall be confidential.

*Article 23 –deleted*

[...]

## CHAPTER VII

### TRANSPARENCY, OUTREACH, MONITORING, EVALUATION

*Article 24*

1. [...] The Commission and the Council shall, where appropriate, [...] make available **guidelines** [...] and/or recommendations for best practices for the subjects referred to in this Regulation to ensure the efficiency of the Union export control regime and the consistency of its implementation. [...] **The provision of guidelines and/or recommendations for best practices [...] to exporters, brokers and suppliers of technical assistance shall be the responsibility of the Member States where they are resident or established. [...] In these guidelines and/or recommendations for best practices [...] the information needs of small and medium-sized companies shall be especially taken into account [...].**
2. The Commission shall, [...] **in consultation with the Dual-Use Coordination Group**, submit an annual report to the European Parliament and the Council on the implementation [...] **of this Regulation**, and on the activities, examinations and consultations of the Dual-Use Coordination Group. **This** annual report shall be public. [...]

The annual report shall include information on authorisations (in particular number and value by types of items and by destinations at EU and Member State levels), denials and prohibitions under this Regulation, as well as on the administration (in particular staffing, compliance and outreach activities, dedicated licensing or classification tools), and on the enforcement of controls (in particular number of infringements and penalties).

With regard to cyber-surveillance items the annual report shall include dedicated information on authorisations, in particular on the number of applications received by items, the issuing Member State and the destinations concerned by these applications, and on the decisions taken on these applications.

The information contained in the annual report shall be presented in accordance with the principles set out in paragraph 3.

The Commission and the Council shall make available guidelines on the methodology for data gathering and processing for the preparation of the annual report, including the determination of the types of items and the availability of enforcement data.

3. [...] Member States shall provide to the Commission all appropriate information for the preparation of the report with due consideration given to legal requirements concerning the protection of personal information, commercial sensitive information or protected defense, foreign policy or national security information. Regulation (EC) No. 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics applies to information exchanged or published under this article.

4. Between five and seven years after the date of application of this Regulation, the Commission shall carry out an evaluation of this Regulation and report on the main findings to the European Parliament, the Council and the European Economic and Social Committee. After three years after the date of application of this Regulation, the Commission shall carry out an evaluation of Art. 4a and report on the main findings to the European Parliament, the Council and the European Economic and Social Committee.

## CHAPTER VIII

### CONTROL MEASURES

#### *Article 25*

1. Exporters of dual-use items shall keep detailed registers or records of their exports, in accordance with the national law or practice in force in the respective Member States. Such registers or records shall include in particular commercial documents such as invoices, manifests and transport and other dispatch documents containing sufficient information to allow the following to be identified:
  - (a) the description of the dual-use items;
  - (b) the quantity of the dual-use items;
  - (c) the name and address of the exporter and of the consignee;
  - (d) where known, the end-use and end-user of the dual-use items.
2. In accordance with national law or practice in force in the respective Member States, brokers and suppliers of technical assistance shall keep registers or records for brokering **services** or technical assistance so as to be able to prove, on request, the description of the dual-use items that were the subject of brokering **services** or technical assistance, the period during which the items were the subject of such services and their destination, and the countries concerned by those services.
3. The registers or records and the documents referred to in paragraphs 1 and 2 shall be kept for at least **five** years from the end of the calendar year in which the export took place or the brokering **services** or technical assistance were provided. They shall be produced, on request, to the competent authority.
4. Documents and records of intra-Union transfers of dual-use items listed in Annex I shall be kept for at least three years from the end of the calendar year in which a transfer took place and shall be produced, **on request**, to the competent authority of the Member State from which these items were transferred.

## Article 26

In order to ensure that this Regulation is properly applied, each Member State shall take **all necessary measures** [...] to permit its competent authorities:

- (a) to gather information on any order or transaction involving dual-use items;
- (b) to establish that the export control measures are being properly applied, which may include in particular the power to enter the premises of persons with an interest in an export transaction or brokers involved in the supply of brokering services under circumstances set out in Article 5, or suppliers of technical assistance under the circumstances set out in Article 7.

## CHAPTER IX

### COOPERATION WITH THIRD COUNTRIES

## Article 27

1. The Commission and [...] **the** Member States shall, where appropriate, maintain [...] **dialogues with third countries, with a view to promoting the [...] global convergence of controls.** [...]

**The dialogues may support [...] regular and reciprocal cooperation with third countries, including exchange of information and best practices, as well as capacity-building and outreach to third countries. The dialogues may also encourage the adherence of third countries to robust export controls developed by multilateral export control regimes as a model for international best practice.**

2. Without prejudice to the provisions on mutual administrative assistance agreements or protocols in customs matters concluded between the Union and third countries, the Council may authorise the Commission to negotiate with third countries agreements providing for the mutual recognition of export controls of dual-use items covered by this Regulation. [...]

These negotiations shall be conducted in accordance with the procedures established in Article 207(3) of the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community, as appropriate.

## CHAPTER X

### FINAL PROVISIONS

#### *Article 28*

This Regulation **applies** without prejudice to the Commission Delegated Decision of 15 September 2015 supplementing Decision No 1104/2011/EU of the European Parliament and of the Council.

#### *Article 29*

Regulation (EC) No 428/2009 is repealed with effect from [...].

However, for export authorisation applications made before [...], the relevant provisions of Regulation (EC) No 428/2009 shall continue to apply.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex VI.

#### *Article 30*

This Regulation shall enter into force on the ninetieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament

For the Council

*The President*

*The President*

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ANNEXES

to the

**Proposal for a Regulation of the European Parliament and of the Council  
setting up a Union regime for the control of exports, transfer, brokering, technical assistance  
and transit of dual-use items (recast)**

ANNEX I

List of Dual-Use Items (list referred to in Article 3 of this Regulation) [**No changes**]

[...] B. List of Other Dual-Use Items [**deleted**].

## ANNEX II

The following sections set out the Union general export authorisations for certain exports.

### **A. EXPORTS TO AUSTRALIA, CANADA, ICELAND, JAPAN, NEW ZEALAND, NORWAY, SWITZERLAND, INCLUDING LIECHTENSTEIN, AND UNITED STATES OF AMERICA**

#### ***UNION GENERAL EXPORT AUTHORISATION NO EU001***

*(referred to in Article 10(1)(d) of this Regulation)*

***Exports to Australia, Canada, Iceland, Japan, New Zealand, Norway, Switzerland, including Liechtenstein, and United States of America***

*Issuing authority: European Union*

#### *Part 1 – Items*

This general export authorisation covers all dual-use items specified in any entry in [...] Annex I to this Regulation, except those listed in Section I of Annex II.

#### *Part 2 – Destinations*

This export authorisation is valid throughout the **customs territory of the** Union for exports to the following destinations:

- Australia
- Canada
- Iceland
- Japan

- New Zealand
- Norway
- Switzerland, including Liechtenstein
- United States of America.

*Part 3 – Conditions and requirements for use of this authorisation*

1. This authorisation **does not authorise the export of items where:**

- (1) the exporter has been informed by the competent authority of the Member State in which he is resident or established that the items in question are or may be intended, in their entirety or in part:
  - (a) for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons;
  - (b) for a military end-use **as defined in Article 4(1)b of this Regulation in a country subject to an arms embargo; or**
  - (c) **for use as parts or components of military items listed in the national military list that have been exported from the territory of the Member State concerned without authorisation or in breach of an authorisation prescribed by the national legislation of that Member State;**
- (2) the exporter is aware that the items in question are intended, in their entirety or in part, for any of the uses referred to in subparagraph (1); **or**

- (3) the relevant items are exported to a customs-free zone or a free warehouse which is located in a destination covered by this authorisation.
2. Exporters **will** declare that the items are being exported under Union general export authorisation EU001 in the customs declaration.
3. **Any exporter who uses this authorisation must notify the competent authority of the Member State where he is resident or established of the first use of this authorisation no later than 30 days after the date when the first export took place or, alternatively, and in accordance with a requirement by the competent authority of the Member State where the exporter is resident or established, prior to the first use of this authorisation. Member States will notify the Commission of the notification mechanism chosen for this authorisation. The Commission will publish the information notified to it in the C series of the *Official Journal of the European Union*.**

**Reporting requirements attached to the use of this authorisation and additional information that the Member State from which the export is made might require on items exported under this authorisation are defined by Member States.**

**A Member State may require the exporters resident or established in that Member State to register prior to the first use of this authorisation. Registration will be automatic and acknowledged by the competent authority to the exporter without delay and in any case within 10 working days of receipt, subject to Article 10(7) of this Regulation.**

**Where applicable, the requirements set out in the second and third paragraphs will be based on those defined for the use of national general export authorisations granted by those Member States which provide for such authorisations. [...]**

## **B. EXPORTS OF CERTAIN DUAL-USE ITEMS TO CERTAIN DESTINATIONS**

### ***UNION GENERAL EXPORT AUTHORISATION No EU002***

***(referred to in Article 10(1)(d) of this Regulation)***

***Exports of certain dual-use items to certain destinations***

***Issuing authority: European Union***

#### ***Part 1 — Items***

This general export authorisation covers the following dual-use items specified in [...] Annex I to this Regulation:

- 1A001,
- 1A003,
- 1A004,
- 1C003b-c,
- 1C004,
- 1C005,
- 1C006,
- 1C008,
- 1C009,
- 2B008,
- 3A001a3,

- 3A001a6 to 3A001a12,
- 3A002c to 3A002f,
- 3C001,
- 3C002,
- 3C003,
- 3C004,
- 3C005,
- 3C006.



#### *Part 2 — Destinations*

This authorisation is valid throughout the **customs territory of the** Union for exports to the following destinations:

- Argentina
- South Africa
- South Korea
- Turkey.

#### *Part 3 — Conditions and requirements for use*

1. This authorisation does not authorise the export of items where:
  - (1) the exporter has been informed by the competent authority of the Member State in which he is resident or established that the items in question are or may be intended, in their entirety or in part:

- (a) for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons;
  - (b) for a military end-use **as defined in Article 4(1)b of this Regulation in a country subject to an arms embargo**; or
  - (c) for use as parts or components of military items listed in the national military list that have been exported from the territory of the Member State concerned without authorisation or in breach of an authorisation prescribed by the national legislation of that Member State;
- (2) the exporter [...] is aware that the items in question are intended, in their entirety or in part, for any of the uses referred to in subparagraph (1); **or**
  - (3) the relevant items are exported to a customs-free zone or a free warehouse which is located in a destination covered by this authorisation.
2. Exporters **will** declare that the items are being exported under Union general export authorisation EU002 in the customs declaration.

3. Any exporter who uses this authorisation must notify the competent authority of the Member State where he is resident or established of the first use of this authorisation no later than 30 days after the date when the first export took place or, alternatively, and in accordance with a requirement by the competent authority of the Member State where the exporter is resident or established, prior to the first use of this authorisation. Member States will notify the Commission of the notification mechanism chosen for this authorisation. The Commission will publish the information notified to it in the C series of the *Official Journal of the European Union*.

Reporting requirements attached to the use of this authorisation and additional information that the Member State from which the export is made might require on items exported under this authorisation are defined by Member States.

A Member State may require the exporters resident or established in that Member State to register prior to the first use of this authorisation. Registration will be automatic and acknowledged by the competent authority to the exporter without delay and in any case within 10 working days of receipt, subject to Article 10(7) of this Regulation.

Where applicable, the requirements set out in the second and third paragraphs will be based on those defined for the use of national general export authorisations granted by those Member States which provide for such authorisations. [...]

## C. EXPORT AFTER REPAIR/REPLACEMENT

### ***UNION GENERAL EXPORT AUTHORISATION No EU003***

***(referred to in Article 10(1)(d) of this Regulation)***

#### ***Export after repair/replacement***

*Issuing authority: European Union*

#### *Part 1 — Items*

1. This general export authorisation covers all dual-use items specified in any entry in [...] Annex I to this Regulation except those listed in paragraph 2 where:
  - (a) the items were reimported into the customs territory of the [...] Union for the purpose of maintenance, repair or replacement, and are exported or re-exported to the country of consignment without any changes to their original characteristics within a period of 5 years after the date when the original export authorisation has been granted; or
  - (b) the items are exported to the country of consignment in exchange for items of the same quality and number which were reimported into the customs territory of the [...] Union for maintenance, repair or replacement within a period of 5 years after the date when the original export authorisation has been granted.
2. Items excluded:
  - (a) all items listed in Section I of this Annex;
  - (b) all items in Sections D and E set out in [...] Annex I to this Regulation;

(c) the following items specified in [...] Annex I to this Regulation:

- 1A002a,
- 1C012a,
- 1C227,
- 1C228,
- 1C229,
- 1C230,
- 1C231,
- 1C236,
- 1C237,
- 1C240,
- 1C350,
- 1C450,
- 5A001b5,
- **5A002c to 5A002e,**
- **5A003,**
- 6A001a2a1,
- 6A001a2a5,

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- 6A002a1c,
- 8A001b,
- 8A001d,
- 9A011.

## *Part 2 — Destinations*

This authorisation is valid throughout the **customs territory of the** Union for exports to the following destinations:

- Albania
- Argentina
- Bosnia and Herzegovina
- Brazil
- Chile
- China (including Hong Kong and Macao)
- the [...] Republic of **North** Macedonia
- French Overseas Territories
- India
- Kazakhstan
- Mexico
- Montenegro

- Morocco
- Russia
- Serbia
- Singapore
- South Africa
- South Korea
- Tunisia
- Turkey
- Ukraine
- United Arab Emirates.



*Part 3 — Conditions and requirements for use*

1. This authorisation can only be used when the initial export has taken place under a Union general export authorisation or an initial export authorisation has been granted by the competent authority of the Member State where the original exporter was resident or established for the export of the items which have subsequently been reimported into the customs territory of the [...] Union for the purposes of maintenance, repair or replacement. This authorisation is valid only for exports to the original end-user.
2. This authorisation does not authorise the export of items where:
  - (1) the exporter has been informed by the competent authority of the Member State in which he is resident or established that the items in question are or may be intended, in their entirety or in part:

- (a) for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons;
- (b) for a military end-use **as defined in Article 4(1)b of this Regulation where the purchasing country or country of destination is subject to an arms embargo;**  
or
- (c) for use as parts or components of military items listed in the national military list that have been exported from the territory of the Member State concerned without authorisation or in breach of an authorisation prescribed by the national legislation of that Member State;

- (2) the exporter is aware that the items in question are intended, in their entirety or in part, for any of the uses referred to in subparagraph (1);
- (3) the relevant items are exported to a customs-free zone or a free warehouse which is located in a destination covered by this authorisation;
- (4) the initial authorisation has been annulled, suspended, modified or revoked; **or**
- (5) the exporter [...] is aware that the end-use of the items in question is different from that specified in the original export authorisation.

3. On exportation of any of the items pursuant to this authorisation, exporters **will**:

- (1) mention the reference number of the initial export authorisation in the export declaration to customs together with the name of the Member State that granted the authorisation, and declare that the items are being exported under Union general export authorisation EU003 in the customs declaration;

- (2) provide customs officers, if so requested, with documentary evidence of the date of importation of the items into the Union, of any maintenance, repair or replacement of the items carried out in the Union and of the fact that the items are being returned to the end-user and the third country from which they were imported into the Union.

4. **Any exporter who uses this authorisation must notify the competent authority of the Member State where he is resident or established of the first use of this authorisation no later than 30 days after the date when the first export took place or, alternatively, and in accordance with a requirement by the competent authority of the Member State where the exporter is resident or established, prior to the first use of this authorisation. Member States will notify the Commission of the notification mechanism chosen for this authorisation. The Commission will publish the information notified to it in the C series of the *Official Journal of the European Union*.**

**Reporting requirements attached to the use of this authorisation and additional information that the Member State from which the export is made might require on items exported under this authorisation are defined by Member States.**

**A Member State may require the exporter resident or established in that Member State to register prior to the first use of this authorisation. Registration will be automatic and acknowledged by the competent authority to the exporter without delay and in any case within 10 working days of receipt, subject to Article 10(7) of this Regulation.**

**Where applicable, the requirements set out in the second and third subparagraphs will be based on those defined for the use of national general export authorisations granted by those Member States which provide for such authorisations. [...]**

5. This authorisation covers items for 'repair', 'replacement' and 'maintenance'. This may involve coincidental improvement on the original goods, e.g. resulting from the use of modern spare parts or from use of a later built standard for reliability or safety reasons, provided that this does not result in any enhancement to the functional capability of the items or provide the items with new or additional functions.

## **D. TEMPORARY EXPORT FOR EXHIBITION OR FAIR**

### ***UNION GENERAL EXPORT AUTHORISATION No EU004***

***(referred to in Article 10(1)(d) of this Regulation)***

***Temporary export for exhibition or fair***

*Issuing authority: European Union*

#### *Part 1 — Items*

This general export authorisation covers all dual-use items specified in any entry in [...] Annex I to this Regulation except:

- (a) all items listed in Section I of this Annex;
- (b) all items in Section D set out in [...] Annex I to this Regulation (this does not include software necessary to the proper functioning of the equipment for the purpose of the demonstration);
- (c) all items in Section E set out in [...] Annex I to this Regulation;
- (d) the following items specified in [...] Annex I to this Regulation:
  - 1A002a,
  - 1C002b4,
  - 1C010,
  - 1C012a,
  - 1C227,

- 1C228,
- 1C229,
- 1C230,
- 1C231,
- 1C236,
- 1C237,
- 1C240,
- 1C350,
- 1C450,
- 5A001b5,
- **5A002c to 5A002e,**
- **5A003,**
- 6A001,
- 6A002a,
- 6A008l3,
- 8A001b,
- 8A001d,
- 9A011.



*Part 2 — Destinations*

This authorisation is valid throughout the **customs territory of the** Union for exports to the following destinations:

- Albania
- Argentina
- Bosnia and Herzegovina
- Brazil
- Chile
- China (including Hong Kong and Macao)
- the [...] Republic of **North** Macedonia
- French Overseas Territories
- India
- Kazakhstan
- Mexico
- Montenegro
- Morocco
- Russia
- Serbia
- Singapore

- South Africa
- South Korea
- Tunisia
- Turkey
- Ukraine
- United Arab Emirates.

*Part 3 — Conditions and requirements for use*

1. This authorisation authorises the export of items listed in Part 1 on condition that the export concerns temporary export for an exhibition or fair as defined in point 6 and that the items are reimported within a period of 120 days after the initial export, complete and without modification, into the customs territory of the [...] Union.
2. The competent authority of the Member State where the exporter is resident or established may, at the exporter's request, waive the requirement that the items are to be reimported as stated in paragraph 1. To waive the requirement, the procedure for individual authorisations laid down in Article 10(2) of this Regulation **will** apply accordingly.
3. This authorisation does not authorise the export of items where:
  - (1) the exporter has been informed by the competent authority of the Member State in which he is resident or established that the items in question are or may be intended, in their entirety or in part:

- (a) for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons;
  - (b) for a military end-use **as defined in Article 4(1)b of this Regulation where the purchasing country or country of destination is subject to an arms embargo;**  
or
  - (c) for use as parts or components of military items listed in the national military list that have been exported from the territory of the Member State concerned without authorisation or in breach of an authorisation prescribed by the national legislation of that Member State;
- (2) the exporter is aware that the items in question are intended, in their entirety or in part, for any of the uses referred to in subparagraph (1);
  - (3) the relevant items are exported to a customs-free zone or a free warehouse which is located in a destination covered by this authorisation;
  - (4) the exporter has been informed by a competent authority of the Member State in which he is resident or established, or is otherwise aware (e.g. from information received from the manufacturer), that the items in question have been classified by the competent authority as having a protective national security classification marking, equivalent to or above CONFIDENTIEL UE/EU CONFIDENTIAL;
  - (5) their return, in their original state, without the removal, copying or dissemination of any component or software, cannot be guaranteed by the exporter, or where a transfer of technology is connected with a presentation;

- (6) the relevant items are to be exported for a private presentation or demonstration (e.g. in in-house showrooms);
- (7) the relevant items are to be merged into any production process;
- (8) the relevant items are to be used for their intended purpose, except to the minimum extent required for effective demonstration, but without making specific test outputs available to third parties;
- (9) the export is to take place as a result of a commercial transaction, in particular as regards the sale, rental or lease of the relevant items;
- (10) the relevant items are to be stored at an exhibition or fair only for the purpose of sale, rent or lease, without being presented or demonstrated;
- (11) the exporter makes any arrangement which would prevent him from keeping the relevant items under his control during the whole period of the temporary export.

4. Exporters **will** declare that the items are being exported under Union general export authorisation EU004 in the customs declaration.

5. **Any exporter who uses this authorisation must notify the competent authority of the Member State where he is resident or established of the first use of this authorisation no later than 30 days after the date when the first export took place or, alternatively, and in accordance with a requirement by the competent authority of the Member State where the exporter is resident or established, prior to the first use of this authorisation. Member States will notify the Commission of the notification mechanism chosen for this authorisation. The Commission will publish the information notified to it in the C series of the *Official Journal of the European Union*.**

**Reporting requirements attached to the use of this authorisation and additional information that the Member State from which the export is made might require on items exported under this authorisation are defined by Member States.**

**A Member State may require exporters resident or established in that Member State to register prior to the first use of this authorisation. Registration will be automatic and acknowledged by the competent authority to the exporter without delay and in any case within 10 working days of receipt, subject to Article 10(7) of this Regulation.**

**Where applicable, the requirements set out in the second and third subparagraphs will be based on those defined for the use of national general export authorisations granted by those Member States which provide for such authorisations. [...]**

6. For the purpose of this authorisation, 'exhibition or fair' means commercial events of a specific duration at which several exhibitors make demonstrations of their products to trade visitors or to the general public.

## E. TELECOMMUNICATIONS

### ***UNION GENERAL EXPORT AUTHORISATION NO EU005***

***(referred to in Article 10(1)(d) of this Regulation)***

#### ***Telecommunications***

*Issuing authority: European Union*

#### *Part 1 — Items*

This general export authorisation covers the following dual-use items specified in [...] Annex I to this Regulation:

- (a) the following items of Category 5, Part I:
  - (i) items, including specially designed or developed components and accessories therefor specified in 5A001b2, 5A001c and **5A001d**;
  - (ii) items specified in 5B001 and 5D001, where test, inspection and production equipment is concerned and software for items mentioned under (i);
- (b) technology controlled by 5E001a, where required for the installation, operation, maintenance or repair of items specified under (a) and intended for the same end-user.

#### *Part 2 — Destinations*

This authorisation is valid throughout the **customs territory of the** Union for exports to the following destinations:

- Argentina
- China (including Hong Kong and Macao)
- India

- Russia
- South Africa
- South Korea
- Turkey
- Ukraine.

*Part 3 — Conditions and requirements for use*

1. This authorisation does not authorise the export of items where:
  - (1) the exporter has been informed by the competent authority of the Member State in which he is resident or established that the items in question are or may be intended, in their entirety or in part:
    - (a) for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons;
    - (b) for a military end-use **as defined in Article 4(1)b of this Regulation where the purchasing country or country of destination is subject to an arms embargo;**
    - (c) for use as parts or components of military items listed in the national military list that have been exported from the territory of the Member State concerned without authorisation or in breach of an authorisation prescribed by the national legislation of that Member State; or

- (d) for use in connection with a violation of human rights, democratic principles or freedom of speech as defined by the Charter of Fundamental Rights of the European Union, by using interception technologies and digital data transfer devices for monitoring mobile phones and text messages and targeted surveillance of Internet use (e.g. via Monitoring Centres and Lawful Interception Gateways);
- (2) the exporter [...] is aware that the items in question are intended, in their entirety or in part, for any of the uses referred to in subparagraph 1;
- (3) the exporter [...] is aware that the items in question will be re-exported to any destination other than those listed in Part 2 of this Section or in Part 2 of Section A of this Annex and the Member States;
- (4) the relevant items are exported to a customs-free zone or a free warehouse which is located in a destination covered by this authorisation.

2. Exporters **will** declare that the items are being exported under Union general export authorisation EU005 in the customs declaration.

3. **Any exporter who uses this authorisation must notify the competent authority of the Member State where he is resident or established of the first use of this authorisation no later than 30 days after the date when the first export took place or, alternatively, and in accordance with a requirement by the competent authority of the Member State where the exporter is resident or established, prior to the first use of this authorisation. Member States will notify the Commission of the notification mechanism chosen for this authorisation. The Commission will publish the information notified to it in the C series of the *Official Journal of the European Union*.**

**Reporting requirements attached to the use of this authorisation and additional information that the Member State from which the export is made might require on items exported under this authorisation are defined by Member States.**

**A Member State may require exporters resident or established in that Member State to register prior to the first use of this authorisation. Registration will be automatic and acknowledged by the competent authority to the exporter without delay and in any case within 10 working days of receipt, subject to Article 10(7) of this Regulation.**

**Where applicable, the requirements set out in the second and third subparagraphs will be based on those defined for the use of national general export authorisations granted by those Member States which provide for such authorisations.**

## **F. CHEMICALS**

### ***UNION GENERAL EXPORT AUTHORISATION No EU006***

***(referred to in Article 10(1)(d) of this Regulation)***

#### ***Chemicals***


*Issuing authority: European Union*

#### ***Part 1 — Items***

This general export authorisation covers the following dual-use items specified in [...] Annex I to this Regulation:

1C350:

1. Thiodiglycol (111-48-8);
2. Phosphorus oxychloride (10025-87-3);
3. Dimethyl methylphosphonate (756-79-6);
5. Methylphosphonyl dichloride (676-97-1);
6. Dimethyl phosphite (DMP) (868-85-9);
7. Phosphorus trichloride (7719-12-2);
8. Trimethyl phosphite (TMP) (121-45-9);
9. Thionyl chloride (7719-09-7);
10. 3-Hydroxy-1-methylpiperidine (3554-74-3);
11. N,N-Diisopropyl-(beta)-aminoethyl chloride (96-79-7);

- 
12. N,N-Diisopropyl-(beta)-aminoethane thiol (5842-07-9);
  13. Quinuclidin-3-ol (1619-34-7);
  14. Potassium fluoride (7789-23-3);
  15. 2-Chloroethanol (107-07-3);
  16. Dimethylamine (124-40-3);
  17. Diethyl ethylphosphonate (78-38-6);
  18. Diethyl-N,N-dimethylphosphoramidate (2404-03-7);
  19. Diethyl phosphite (762-04-9);
  20. Dimethylamine hydrochloride (506-59-2);
  21. Ethyl phosphinyl dichloride (1498-40-4);
  22. Ethyl phosphoryl dichloride (1066-50-8);
  24. Hydrogen fluoride (7664-39-3);
  25. Methyl benzilate (76-89-1);
  26. Methyl phosphinyl dichloride (676-83-5);
  27. N,N-Diisopropyl-(beta)-amino ethanol (96-80-0);
  28. Pinacolyl alcohol (464-07-3);
  30. Triethyl phosphite (122-52-1);
  31. Arsenic trichloride (7784-34-1);

32. Benzilic acid (76-93-7);
33. Diethyl methylphosphonite (15715-41-0);
34. Dimethyl ethylphosphonate (6163-75-3);
35. Ethyl phosphinyl difluoride (430-78-4);
36. Methyl phosphinyl difluoride (753-59-3);
37. 3-Quinuclidone (3731-38-2);
38. Phosphorus pentachloride (10026-13-8);
39. Pinacolone (75-97-8);
40. Potassium cyanide (151-50-8);
41. Potassium bifluoride (7789-29-9);
42. Ammonium hydrogen fluoride or ammonium bifluoride (1341-49-7);
43. Sodium fluoride (7681-49-4);
44. Sodium bifluoride (1333-83-1);
45. Sodium cyanide (143-33-9);
46. Triethanolamine (102-71-6);
47. Phosphorus pentasulphide (1314-80-3);
48. Di-isopropylamine (108-18-9);
49. Diethylaminoethanol (100-37-8);

50. Sodium sulphide (1313-82-2);
51. Sulphur monochloride (10025-67-9);
52. Sulphur dichloride (10545-99-0);
53. Triethanolamine hydrochloride (637-39-8);
54. N,N-Diisopropyl-(Beta)-aminoethyl chloride hydrochloride (4261-68-1);
55. Methylphosphonic acid (993-13-5);
56. Diethyl methylphosphonate (683-08-9);
57. N,N-Dimethylaminophosphoryl dichloride (677-43-0);
58. Triisopropyl phosphite (116-17-6);
59. Ethyldiethanolamine (139-87-7);
60. O,O-Diethyl phosphorothioate (2465-65-8);
61. O,O-Diethyl phosphorodithioate (298-06-6);
62. Sodium hexafluorosilicate (16893-85-9);
63. Methylphosphonothioic dichloride (676-98-2);
- 64. Diethylamine (109-89-7);**
- 65. N,N-Diisopropylaminoethanethiol hydrochloride (41480-75-5);**

1C450 a:

4. Phosgene: Carbonyl dichloride (75-44-5);
5. Cyanogen chloride (506-77-4);
6. Hydrogen cyanide (74-90-8);
7. Chloropicrin: Trichloronitromethane (76-06-2);

1C450 b:

1. Chemicals, other than those specified in the Military Goods Controls or in 1C350, containing a phosphorus atom to which is bonded one methyl, ethyl or propyl (normal or iso) group but not further carbon atoms;
2. N,N-Dialkyl [methyl, ethyl or propyl (normal or iso)] phosphoramidic dihalides, other than N,N-Dimethylaminophosphoryl dichloride which is specified in 1C350.57;
3. Dialkyl [methyl, ethyl or propyl (normal or iso)] N,N-dialkyl [methyl, ethyl or propyl (normal or iso)]-phosphoramidates, other than Diethyl-N,N-dimethylphosphoramidate which is specified in 1C350;
4. N,N-Dialkyl [methyl, ethyl or propyl (normal or iso)] aminoethyl-2-chlorides and corresponding protonated salts, other than N,N-Diisopropyl-(beta)-aminoethyl chloride or N,N-Diisopropyl-(beta)-aminoethyl chloride hydrochloride which are specified in 1C350;
5. N,N-Dialkyl [methyl, ethyl or propyl (normal or iso)] aminoethane-2-ols and corresponding protonated salts; other than N,N-Diisopropyl-(beta)-aminoethanol (96-80-0) and N,N-Diethylaminoethanol (100-37-8) which are specified in 1C350;

6. N,N-Dialkyl [methyl, ethyl or propyl (normal or iso)] aminoethane-2-thiols and corresponding protonated salts, other than N,N-Diisopropyl-(beta)-aminoethane thiol which is specified in 1C350;
8. Methyldiethanolamine (105-59-9).

#### *Part 2 — Destinations*

This authorisation is valid throughout the **customs territory of the** Union for exports to the following destinations:

- Argentina
- South Korea
- Turkey
- Ukraine.

#### *Part 3 — Conditions and requirements for use*

1. This authorisation does not authorise the export of items where:
  - (1) the exporter has been informed by the competent authority of the Member State in which he is resident or established that the items in question are or may be intended, in their entirety or in part:
    - (a) for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons;

- (b) for a military end-use as defined in Article 4(1)b of this Regulation where the purchasing country or country of destination is subject to an arms embargo;  
or
  - (c) for use as parts or components of military items listed in the national military list that have been exported from the territory of the Member State concerned without authorisation or in breach of an authorisation prescribed by the national legislation of that Member State;
- (2) the exporter [...] is aware that the items in question are intended, in their entirety or in part, for any of the uses referred to in subparagraph 1;
  - (3) the exporter [...] is aware that the items in question will be re-exported to any destination other than those listed in Part 2 of this Section or in Part 2 of Section A of this Annex and the Member States; or
  - (4) the relevant items are exported to a customs-free zone or a free warehouse which is located in a destination covered by this authorisation.

2. Exporters **will** declare that the items are being exported under Union general export authorisation EU006 in the customs declaration.

3. **Any exporter who uses this authorisation must notify the competent authority of the Member State where he is resident or established of the first use of this authorisation no later than 30 days after the date when the first export took place or, alternatively, and in accordance with a requirement by the competent authority of the Member State where the exporter is resident or established, prior to the first use of this authorisation.**

**Member States will notify the Commission of the notification mechanism chosen for this authorisation. The Commission will publish the information notified to it in the C series of the *Official Journal of the European Union*.**

Reporting requirements attached to the use of this authorisation and additional information that the Member State from which the export is made might require on items exported under this authorisation are defined by Member States.

A Member State may require exporters resident or established in that Member State to register prior to the first use of this authorisation. Registration will be automatic and acknowledged by the competent authority to the exporter without delay and in any case within 10 working days of receipt, subject to Article 10(7) of this Regulation.

Where applicable, the requirements set out in the second and third subparagraphs will be based on those defined for the use of national general export authorisations granted by those Member States which provide for such authorisations. [...]

**~~G. — LOW VALUE SHIPMENTS (EU007) [Deleted]~~**

[...]

## G. INTRA-GROUP EXPORT OF SOFTWARE AND TECHNOLOGY

*UNION GENERAL EXPORT AUTHORISATION NO EU007*

*(referred to in Article 10(1)(d) of this Regulation)*

*Intra-group export of software and technology*

*Issuing authority: European Union*

### *Part 1 – Items*

This general export authorisation covers all technology and software specified in [...] Annex I to this Regulation, except those listed in Section I of this Annex **and technology and software related to items under 4A005, 4D004, 4E001.c, 5A001.f and 5A001.j.**

### *Part 2 – Destinations*

This authorisation is valid throughout **the customs territory of the Union** for the export of software and technology to **Argentina, Brazil, Chile, India, Indonesia, Israel, Jordan, Malaysia, Morocco, Mexico, Philippines, Singapore, South Africa, South Korea, Thailand [...]** **and Tunisia [...]**.

### *Part 3 – Conditions and requirements for use*

1. This authorisation authorises the **export** of software and technology listed in Part 1 by any exporter **that is a legal person** [...] established in a Member State of the Union to [...] a **company wholly owned and controlled [...] by the exporter (hereinafter "its subsidiary") or to a company directly and wholly owned and controlled by the same parent company as the exporter (hereafter - "sister company")**, provided that:
  - (1) **[...] the parent company that controls directly and the entity ultimately controlling the exporter are resident or established in a Member State of the Union or in a country covered by EU001, and,**
  - (2) **[...] the parent company that controls directly the exporter provides a binding guarantee for the sister company's compliance with the requirements of this authorisation.**

**For the purpose of this [...] authorisation a parent company controls another company when it is capable of exercising decisive influence on it.**

[...]

- (3) **the exported software and technology will be exclusively used [...] for the commercial product development activities of the exporter and the subsidiary or sister company respectively, and, in the case of employees, pursuant to the agreement establishing the employment relationship, and**
- (4) **the exported software and technology and any products resulting therefrom remain under the complete control of the exporter, or, for the purpose of fulfilling the requirements of this authorisation when the export is directed to a sister company, under the complete control of the parent company that controls directly the sister company and will not be shared with any other entity [...], and**
- (5) **the exported software and technology will be returned to the exporter and completely deleted by the subsidiary or sister company when the development activity has been completed or in the event that the subsidiary or sister company is acquired by any other entity [...]. Any resulting developed technology will also be transmitted to the exporter and completely deleted by the subsidiary or sister company.**

2. This authorisation does not authorise **the export** of software and technology where:

- (1) the exporter has been informed by the competent authority of the Member State in which he is [...] established that the software or technology in question is or may be intended, in its entirety or in part:
  - (a) for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons;

- (b) for a military, paramilitary, police, intelligence, [...] surveillance end-use [...] or other security end-use by the government or by entities acting on behalf of the government; or
- (c) for use as parts or components of military items listed in the national military list that have been exported from the territory of the Member State concerned without authorisation or in breach of an authorisation prescribed by the national legislation of that Member State;
- (d) for use in connection with a violation of human rights, democratic principles or freedom of speech as defined by the Charter of Fundamental Rights of the European Union; [...]
- (2) the exporter [...] is aware that the software **or** technology in question **is** intended, in **its** entirety or in part, for any of the uses referred to in subparagraph 1; **or**
- (3) the exporter [...] is aware that the software **or** technology in question will be re-**exported** to any destination other than those listed in Part 2 of Section A of this Annex and the Member States.
- (4) the exporter is aware that the consignee or end-user of the items in question is a military, paramilitary, police or intelligence service, or another governmental service for security, or that the items are intended for entities acting on behalf of any of the aforementioned services;

**A Member State may adopt national legislation expanding the provisions of subparagraphs 2(2) and 2(3) above to cover circumstances where the exporter has grounds for suspecting that the software or technology in question are intended for the uses referred to in subparagraphs 2(2) or 2(3) above.**

3. Any exporter intending to use this authorisation **will** implement an Internal Compliance Programme.
4. Exporters **will** declare that the items are being exported under Union general export authorisation **EU007** in the customs declaration in the case of tangible export of software or technology.

- 5. Any exporter intending to use this authorisation will register prior to the first use of this authorisation with the competent authority of the Member State where he is established. Registration will be automatic and acknowledged by the competent authority to the exporter within 10 working days of receipt.**
- 6. Any exporter who uses this authorisation [...] will notify the competent authority of the Member State where he is [...] established of the first use of this authorisation no later than 30 days prior to the date of the first export.**
- 7. [...] Any exporter who uses this authorisation will report to the competent authority of the Member State where he is established on the use of this authorisation. The report on the use of this authorisation will be produced at least once per year and will include at least information regarding:**
- (1) the description of the software and technology;**
  - (2) where available, the quantity and the value of the software and technology;**
  - (3) the subsidiaries, sister companies and parent companies involved under this authorisation.**

**Additional information that the Member State from which the export is made might require on items exported under this authorisation are defined by Member States.**

## H. ENCRYPTION

### **UNION GENERAL EXPORT AUTHORISATION NO EU008**

*(referred to in Article 10(1)(d) of this Regulation)*

#### **Encryption**

*Issuing authority: European Union*

#### *Part 1 — Items*

This general export authorisation covers dual-use items specified in [...] Annex I to this Regulation as follows:[...]

- 5A002.a.2 [...]
- **5A002.a.3, [...]**
- 5A002.b, **only 'cryptographic activation token' converting, by means of "cryptographic activation", an item not specified in Category 5 – Part 2 into an item specified in 5A002.a. as above or 5D002.c.1. as below, and not released by the Cryptography Note (Note 3 in Category 5 – Part 2); [...]**
- 5D002.a.1, **only "Software" specially designed or modified for the [...] “use” of equipment specified in 5A002.a [...] as above or “software” specified in 5D002.c.1 [...] as below.**
- 5D002.b, **"Software" having the characteristics of a 'cryptographic activation token' specified in 5A002.b. as above;**
- 5D002.c.1, **only “Software” having the characteristics of, or performing or simulating the functions of equipment specified in [...] 5A002.a as above.**
- [...]
- 5E002.b, **only "Technology" having the characteristics of a 'cryptographic activation token' specified in 5A002.b. as above.**

**This authorization is only valid if the items meet all of the following:**

- They use only published or commercial cryptographic standards that have been approved or adopted by internationally recognised standard bodies.
- They do not use cryptographic standards specially designed for government use (e.g. the cryptographic standards used in public safety radio systems, such as TETRA, TETRAPOL and P25); and
- Any cryptographic functionality used by the item cannot be easily changed by the user.

This authorisation cannot be used if:

- The exporter has been informed by the competent authority of the Member State in which he is resident or established, or is otherwise aware (e.g. from information received from the manufacturer), that the items in question have been accredited or otherwise formally approved by the designated authority in a Member State (or are in the process of accreditation or other formal approval) to transmit, process or store classified information, equivalent to or above RESTREINT UE/EU RESTRICTED.
- The exporter has been informed by the competent authority of the Member State in which he is resident or established, or is otherwise aware (e.g. from information received from the manufacturer), that the items in question have been classified by the designated authority in a Member State (or are in the process of classification) as having a protective national security classification marking, equivalent to or above RESTREINT UE/EU RESTRICTED.

## *Part 2 — Destinations*

This authorisation is valid throughout the **customs territory of the** Union for exports to all destinations, excluding [...]:

- a. **destinations eligible for export under EU001**
- b. **Afghanistan, Armenia, Azerbaijan, Belarus, Burma (Myanmar), Cambodia, Central African Republic, China (including Hong Kong and Macao), Democratic Republic of Congo, Republic of Congo, Egypt, Eritrea, Georgia, Iran, Iraq, Israel, Kazakhstan, Kyrgyzstan, Lebanon, Libya, Malaysia, Mali, Mauritius, Mongolia, North Korea, Oman, Pakistan, Russian Federation, Qatar, Saudi Arabia, Somalia, South Sudan, Sudan, Syria, Tajikistan, Turkmenistan, United Arab Emirates, Uzbekistan, Venezuela, Yemen, Zimbabwe; [...]**
- c. **any destination, other than those listed in b above**, subject to an arms embargo or subject to restrictive measures of the Union applicable to dual-use **items [...]**.

## *Part 3 — Conditions and requirements for use*

1. This authorisation does not authorise the export of items where:
  - (1) the exporter has been informed by the competent authority of the Member State in which he is resident or established that the items in question are or may be intended, in their entirety or in part:
    - (a) for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons;
    - (b) for a military, **paramilitary, police, intelligence, [...] surveillance end-use [...], or other security end-use by the government or by entities acting on behalf of the government**;

- (c) for use as parts or components of military items listed in the national military list that have been exported from the territory of the Member State concerned without authorisation or in breach of an authorisation prescribed by the national legislation of that Member State; or
  - (d) **for use in connection with a violation of human rights, democratic principles or freedom of speech as defined by the Charter of Fundamental Rights of the European Union, [...]**
- (2) the exporter [...] is aware that the items in question are intended, in their entirety or in part, for any of the uses referred to in subparagraph 1;
  - (3) the exporter [...] is aware that the items in question will be re-exported to any destination **excluded by b or c of Part 2 of this [...] authorisation;**
  - (4) the relevant items are exported to a customs-free zone or a free warehouse which is located in a destination covered by this authorisation;
  - (5) **the exporter is aware [...] that the consignee or end-user of the items in question is a military, paramilitary, police or intelligence service, or another governmental service for security, or that the items are intended for entities acting on behalf of any of the aforementioned services; or**
  - (6) **the export is controlled by virtue of any entry in Annex I to this Regulation not specified in this Union general export authorisation.**

2. **Where a customs declaration is required,** exporters **will** declare that the items are being exported under Union General Export Authorisation EU00**8** in the customs declaration.

3. Any exporter intending to use this authorisation **will** register prior to the first use of this authorisation with the competent authority of the Member State where he is resident or established. Registration **will** be automatic and acknowledged by the competent authority to the exporter within 10 working days of receipt.
4. The registered exporter **will** notify the first use of this authorisation to the competent authority of the Member State where he is resident or established, no later than 10 days before the date of the first export.
5. **The exporter will, [...] at the request of the competent authority of the Member State where he is resident or established, submit technical data of any export planned or conducted under this authorisation [...]. If such technical data has been requested in relation to a specific item and the technical data changes, the exporter will notify the competent authority of this without delay. The technical data will include at least the following information of the item:**
- (1) **manufacturer;**
  - (2) **product name;**
  - (3) **model number;**
  - (4) **item description - a brief general description of the item such as might be contained in a product brochure;**
  - (5) **when necessary, as determined by the competent authority, technical specifications, which will include:**
    - (a) **a list of all relevant cryptographic algorithms, including associated key management, related to data confidentiality;**
    - (b) **a list of any protocols to which the item adheres;**

[...]

- (c) specification of pre- or post-processing of data, such as compression of plain text or packetizing of encrypted data;
- (d) details of programming interfaces that can be used to gain access to the cryptographic functionality of the item;

(6) **Export Control Classification.**

6. **The competent Authority of the Member State where the exporter is resident or established may, for reasons of national security, prohibit the exporter from using this General Export Authorisation for any item mentioned in part 1. The Member State concerned shall inform the Commission and the other Member States on the use of this provision.**
7. The registered exporter **will at the request of [...]** the competent authority of the Member State where he is resident or established **report** on the use of this authorisation. **Upon request** the report on the use of this authorisation **will** be produced at least once per year and will include at least the following information:
- (1) **export control classification [...]** of the dual-use items;
  - (2) the quantity and the value of the dual-use items;
  - (3) the name and address of the consignee;
  - (4) where known, the end-use and end-user of the dual-use items;
  - (5) **a reference to the last submission of technical data for the dual-use items.**

[...]

## **I. List referred to in Article 10(6)(a) of this Regulation and Section A, C and D of this Annex**

The entries do not always provide a complete description of the items and the related notes in [...] Annex I. Only [...] Annex I provides a complete description of the items.

The mention of an item in this Section does not affect the application of the General Software Note (GSN) in [...] Annex I.

- all items specified in [...] Annex IV,
- 0C001 "Natural uranium" or "depleted uranium" or thorium in the form of metal, alloy, chemical compound or concentrate and any other material containing one or more of the foregoing,
- 0C002 "Special fissile materials" other than those specified in [...] Annex IV,
- 0D001 "Software" specially designed or modified for the "development", "production" or "..." of goods specified in Category 0, in so far as it relates to 0C001 or to those items of 0C002 that are excluded from [...] Annex IV,
- 0E001 "Technology" in accordance with the Nuclear Technology Note for the "development", "production" or "..." of goods specified in Category 0, in so far as it relates to 0C001 or to those items of 0C002 that are excluded from [...] Annex IV,
- 1A102 Resaturated pyrolised carbon-carbon components designed for space launch vehicles specified in 9A004 or sounding rockets specified in 9A104,
- 1C351 Human and animal pathogens and "toxins",
- 1C353 Genetic elements and genetically modified organisms,
- 1C354 Plant pathogens,

- 1C450.a.1. Amiton: O,O-Diethyl S-[2-(diethylamino)ethyl] phosphorothiolate (78-53-5) and corresponding alkylated or protonated salts,
- 1C450.a.2. PFIB: 1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene (382-21-8),
- 7E104 "Technology" for the integration of flight control, guidance and propulsion data into a flight management system for optimisation of rocket system trajectory,
- 9A009.a. Hybrid rocket propulsion systems with total impulse capacity exceeding 1.1 MNs,
- 9A117 Staging mechanisms, separation mechanisms and interstages usable in "missiles".

## ANNEX III

### A. Model for individual or global export authorisation forms

(referred to in Article 10(2) of this Regulation)

When granting the export authorisations, Member States will strive to ensure the visibility of the nature of the authorisation (individual or global) on the form issued.

This is an export authorisation valid in all Member States of the European Union until its expiry date.

EUROPEAN UNION

EXPORT OF DUAL-USE ITEMS (Reg. (EU) No ...<sup>1</sup>)

<b>1</b>	1. Exporter	No	2. Identification number	3. Expiry date (if applicable)
<b>LICENCE</b>			4. Contact point details	
	5. Consignee		6. Issuing authority	
	7. Agent/Representative (if different from exporter)	No		
			8 Country of consignment	Code <sup>1</sup>
	9. End user (if different from consignee)		10. Member State of current or future location of the items	Code <sup>1</sup>
			11. Member State of intended entry into the customs export procedure	Code <sup>1</sup>
<b>1</b>			12. Country of final destination	Code <sup>1</sup>

<sup>1</sup> OJ: please insert the number of this Regulation.

	13. Description of the items <sup>2</sup>	14. Country of origin		Code <sup>2</sup>
		15. Harmonised System or Combined Nomenclature Code (if applicable with 8 digit;		16. Control list no (for listed items)
		17. Currency and Value		18. Quantity of the items
	19. End use	20. Contract date (if applicable )	21. Customs export procedure	
	22. Additional information required by national legislation (to be specified on the form)			
	<div>Available for pre-printed information</div> <div>At discretion of Member States</div>			
		For completion by issuing authority  <div>Signature</div> <div>Stamp</div> <div>Issuing Authority</div>		
		Date		

<sup>2</sup> If needed, this description may be given in one or more attachments to this form (1bis). In this case, indicate the exact number of attachments in this box. The description should be as precise as possible and integrate, where relevant, the CAS or other references for chemical items in particular.

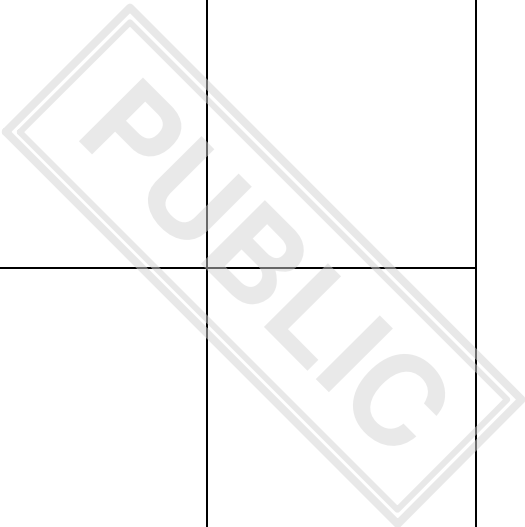
1 Bis	1. Exporter	2. Identification number		
	13. Description of the items	14. Country of origin	Code <sup>2</sup>	
		15. Commodity code (if applicable with 8 digit; CAS number if available )	16. Control list no (for listed items)	
		17. Currency and Value	18. Quantity of the items	
		14. Country of origin	Code <sup>2</sup>	
		15. Commodity code (if applicable with 8 digit; CAS number if available )	16. Control list no (for listed items)	
		17. Currency and Value	18. Quantity of the items	
		14. Country of origin	Code <sup>2</sup>	
		15. Commodity code	16. Control list no	
		17. Currency and value	18. Quantity of the items	
	14. Country of origin	Code <sup>2</sup>		
	15. Commodity code	16. Control list no		
	17. Currency and value	18. Quantity of the items		
	14. Country of origin	Code <sup>2</sup>		
15. Commodity code	16. Control list no			

	17. Currency and value	18. Quantity of the items
13. Description of the items	14. Country of origin	Code <sup>2</sup>
	15. Commodity code	16. Control list no
	17. Currency and value	18. Quantity of the items
13. Description of the items	14. Country of origin	Code <sup>2</sup>
	15. Commodity code	16. Control list no
	17. Currency and value	18. Quantity of the items
13. Description of the items	14. Country of origin	Code <sup>2</sup>
	15. Commodity code	16. Control list no
	17. Currency and value	18. Quantity of the items
13. Description of the items	14. Country of origin	Code <sup>2</sup>
	15. Commodity code	16. Control list no
	17. Currency and value	18. Quantity of the items
13. Description of the items	14. Country of origin	Code <sup>2</sup>
	15. Commodity code	16. Control list no
	17. Currency and value	18. Quantity of the items

Note: In part 1 of column 24, write the quantity still available and in part 2 of column 24, write the quantity deducted on this occasion.

23. Net quantity/value (Net mass/other unit with indication of unit)		26. Customs document (Type and number) or extract (Nr) and date of deduction	27. Member state, name and signature, stamp of deduction
24. In numbers	25. In words for quantity/value deducted		
1.			
2.			
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## B. Model for brokering services / technical assistance authorisation forms

(referred to in Article 11(5) of this Regulation)

EUROPEAN UNION

PROVISION OF BROKERING SERVICES / TECHNICAL ASSISTANCE (Reg. (EU) No ...<sup>3</sup>)

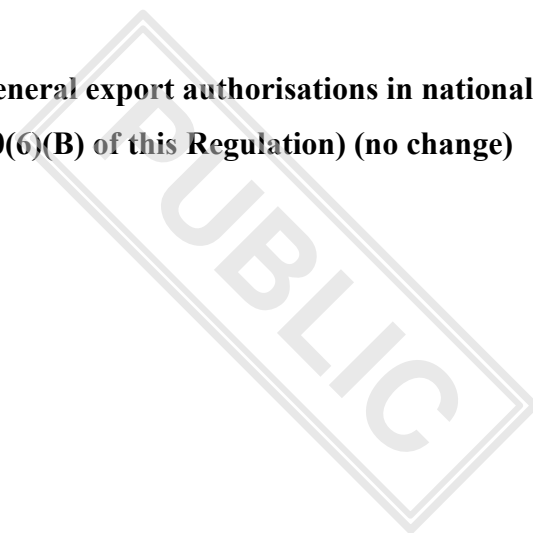
LICENCE	1	1. Broker/ Supplier of technical assistance/ Applicant	No	2. Identification number	3. Expiry date (if applicable)
				4. Contact point details	
		5. Exporter in originating third country (if applicable)		6. Issuing authority	
		7. Consignee [...]			
			No		
				8. Member State in which the broker / supplier of technical assistance is resident or established	Code <sup>4</sup>
				9. Originating third country/Third country of location of the items subject of brokering services	Code <sup>1</sup>
		10. End user in third country of destination (if different from consignee)		11. Third country of destination	Code <sup>1</sup>
				12. Third parties involved, e.g. agents (if applicable)	
	1				

<sup>3</sup> OJ: please insert the number of this Regulation.

<sup>4</sup> See Regulation (EC) No 1172/95 (OJ L 118, 25.5.1995, p. 10).

	13. Description of the items / <b>technical assistance</b> .	14. Harmonised System or Combined Nomenclature Code (if applicable)	15. Control list no (if applicable)
		16. Currency and Value	17. Quantity of the items (if applicable)
	18. End use		
	19. Additional information required by national legislation (to be specified on the form)		
	<p>Available for pre-printed information</p> <p>At discretion of Member States</p>		
		<p>For completion by issuing authority</p> <p>Signature <span style="float: right;">Stamp</span></p> <p>Issuing Authority</p>	
		Date	

**C. Common elements for publication of national general export authorisations in national Official Journals (referred to in Article 9(4)(b) 10(6)(B) of this Regulation) (no change)**



## ANNEX IV

### (List referred to in Article 9(1) of this Regulation)

*The entries do not always cover the complete description of the item and the related notes in Annex I<sup>5</sup>. Only Annex I provides for the complete description of the items.*

*The mention of an item in this Annex does not affect the application of the provisions concerning mass-market products in Annex I.*

*The terms appearing in straight double quotes are defined terms in the global definitions list of Annex I*

### PART I

#### (possibility of National General Authorisation for intra-Union trade)

##### Items of stealth technology

1C001	Materials specially designed for use as absorbers of electromagnetic waves, or intrinsically conductive polymers.  <i>N.B. SEE ALSO 1C101</i>
1C101	Materials or devices for reduced observables such as radar reflectivity, ultraviolet/infrared signatures and acoustic signatures; other than those specified in 1C001, usable in 'missiles', "missile" subsystems or unmanned aerial vehicles specified in 9A012.  <i>Note: 1C101 does not control materials if such goods are formulated solely for civil applications.</i>  <i>Technical Note:</i>  <i>In 1C101 'missiles' means complete rocket systems and unmanned aerial vehicle systems capable of a range exceeding 300 km.</i>
1D103	"Software" specially designed for analysis of reduced observables such as radar reflectivity, ultraviolet/infrared signatures and acoustic signatures.
1E101	"Technology" according to the GTN for the "use" of goods specified in 1C101 or 1D103.
1E102	"Technology" according to the GTN for the "development" of "software" specified in 1D103.
6B008	Pulse radar cross-section measurement systems having transmit pulse widths of

<sup>5</sup> The differences in the wordings/scopes between Annex I and Annex IV are indicated with bold italic text.

	100 ns or less and specially designed components therefor. <i>N.B. SEE ALSO 6B108</i>
6B108	Systems specially designed for radar cross section measurement usable for "missiles" and their subsystems.

### Items of the Union strategic control

1A007	<p>Equipment and devices, specially designed to initiate charges and devices containing energetic materials, by electrical means, as follows:</p> <p><i>N.B. SEE ALSO MILITARY GOODS CONTROLS, 3A229 AND 3A232.</i></p> <p>a. Explosive detonator firing sets designed to drive <b>multiple controlled</b> detonators specified in 1A007.b. <b>below</b>;</p> <p>b. Electrically driven explosive detonators as follows:</p> <ul style="list-style-type: none"> <li>• 1. Exploding bridge (EB);</li> <li>• 2. Exploding bridge wire (EBW);</li> <li>• 3. Slapper;</li> <li>• 4. Exploding foil initiators (EFI).</li> </ul> <p><i>Note: 1A007.b. does not control detonators using only primary explosives, such as lead azide.</i></p>
1C239	High explosives, other than those specified in the Military Goods Controls, or substances or mixtures containing more than 2 % by weight thereof, with a crystal density greater than 1,8 g/cm <sup>3</sup> and having a detonation velocity greater than 8000 m/s.
1E201	"Technology" according to the General Technology Note for the "use" of goods specified in 1C239.
3A229	<p>High-current pulse generators, as follows ...</p> <p><i>N.B. SEE ALSO MILITARY GOODS CONTROLS</i></p>
3A232	<p>Multipoint initiation systems, other than those specified in 1A007 <b>above</b>, as follows...</p> <p><i>N.B. SEE ALSO MILITARY GOODS CONTROLS</i></p>
3E201	"Technology" according to the General Technology Note for the 'use' of equipment specified in 3A229 or 3A232.
6A001	Acoustics, limited to the following:

6A001.a.1.b.	Object detection or location systems having any of the following:  1. A transmitting frequency <i>below 5 kHz</i> ;  6. Designed to withstand ...;
6A001.a.2.a.2.	Hydrophones ... Incorporating ...
6A001.a.2.a.3.	Hydrophones ... Having any ...
6A001.a.2.a.6.	Hydrophones ... Designed for ...
6A001.a.2.b.	Towed acoustic hydrophone arrays ...
6A001.a.2.c.	Processing equipment, specially designed for <b><i>real time application with</i></b> towed acoustic hydrophone arrays, having "user-accessible programmability" and time or frequency domain processing and correlation, including spectral analysis, digital filtering and beamforming using Fast Fourier or other transforms or processes;
6A001.a.2.e.	Bottom or bay cable systems having any of the following:  1. Incorporating hydrophones ..., <i>or</i>  2. Incorporating multiplexed hydrophone group signal modules ...;
6A001.a.2.f.	Processing equipment, specially designed for <b><i>real time application with</i></b> bottom or bay cable systems, having "user-accessible programmability" and time or frequency domain processing and correlation, including spectral analysis, digital filtering and beamforming using Fast Fourier or other transforms or processes;
6D003.a.	"Software" for the "real-time processing" of acoustic data;
8A002.o.3.	Noise reduction systems designed for use on vessels of 1000 tonnes displacement or more, as follows:  b. Active noise reduction or cancellation systems, or magnetic bearings, specially designed for power transmission systems, and incorporating electronic control systems capable of actively reducing equipment vibration by the generation of anti-noise or anti-vibration signals directly to the source;
8E002.a.	"Technology" for the "development", "production", repair, overhaul or refurbishing (re-machining) of propellers specially designed for underwater noise reduction.

## Items of the Union strategic control — Cryptography — Category 5 Part 2

5A004		<p>Equipment designed or modified to perform 'cryptanalytic functions'.</p> <p><i>Note: 5A004 includes systems or equipment, designed or modified to perform 'cryptanalytic functions' by means of reverse engineering.</i></p> <p><i>Technical Note: 'Cryptanalytic functions' are functions designed to defeat cryptographic mechanisms in order to derive confidential variables or sensitive data, including clear text, passwords or cryptographic keys.</i></p>
5D002.c		<p>"Software" having the characteristics of, or performing or simulating the functions of, any of the following:</p> <p>3. Equipment specified in 5A004;</p>
5E002.a.		<p>Only "technology" for the "development", "production" or "use" of the goods specified in 5A004 or 5D002.c. above.</p>

## Items of the MTCR technology

7A117		<p>"Guidance sets", usable in "missiles" capable of achieving system accuracy of 3,33 % or less of the range (e.g., a 'CEP' of 10 km or less at a range of 300 km), <b>except "guidance sets" designed for missiles with a range under 300 km or manned aircraft.</b></p>
7B001		<p>Test, calibration or alignment equipment specially designed for equipment specified in 7A117 above.</p> <p><i>Note: 7B001 does not control test, calibration or alignment equipment for Maintenance Level I or Maintenance Level II.</i></p>
7B003		<p>Equipment specially designed for the "production" of equipment specified in 7A117 above.</p>
7B103		<p>"Production facilities" specially designed for equipment specified in 7A117 <b>above.</b></p>
7D101		<p>"Software" specially designed for the "use" of equipment specified in 7B003 or 7B103 <b>above.</b></p>
7E001		<p>"Technology" according to the General Technology Note for the "development" of equipment or "software" specified in 7A117, 7B003, 7B103 or 7D101 <b>above.</b></p>
7E002		<p>"Technology" according to the General Technology Note for the "production" of equipment specified in 7A117, 7B003 and 7B103 <b>above.</b></p>
7E101		<p>"Technology" according to the General Technology Note for the "use" of equipment specified in 7A117, 7B003, 7B103 and 7D101 <b>above.</b></p>

9A004	<p>Space launch vehicles <b>capable of delivering at least a 500 kg payload to a range of at least 300 km.</b></p> <p><i>N.B. SEE ALSO 9A104.</i></p> <p><i>Note 1:9A004 does not control payloads.</i></p>
9A005	<p>Liquid rocket propulsion systems containing any of the systems or components specified in 9A006 <b>usable for space launch vehicles specified in 9A004 above or sounding rockets specified in 9A104 below.</b></p> <p><i>N.B. SEE ALSO 9A105 and 9A119.</i></p>
9A007.a.	<p>Solid rocket propulsion systems, <b>usable for space launch vehicles specified in 9A004 above or sounding rockets specified in 9A104 below</b>, with any of the following:</p> <p><i>N.B. SEE ALSO 9A119.</i></p> <p>a. Total impulse capacity exceeding 1,1 MNs;</p>
9A008.d.	<p>Components, as follows, specially designed for solid rocket propulsion systems:</p> <p><i>N.B. SEE ALSO 9A108.c.</i></p> <p>d. Movable nozzle or secondary fluid injection thrust vector control systems, <b>usable for space launch vehicles specified in 9A004 above or sounding rockets specified in 9A104 below</b>, capable of any of the following:</p> <ol style="list-style-type: none"> <li>1. Omni-axial movement exceeding <math>\pm 5^\circ</math>;</li> <li>2. Angular vector rotations of <math>20^\circ/\text{s}</math> or more; <i>or</i></li> <li>3. Angular vector accelerations of <math>40^\circ/\text{s}^2</math> or more.</li> </ol>
9A104	<p>Sounding rockets, capable of <b>delivering at least a 500 kg payload to a range of at least 300 km.</b></p> <p><i>N.B. SEE ALSO 9A004.</i></p>
9A105.a.	<p>Liquid propellant rocket engines, as follows:</p> <p><i>N.B. SEE ALSO 9A119.</i></p> <p>a. Liquid propellant rocket engines usable in ‘missiles’, other than those specified in 9A005, integrated, or designed or modified to be integrated, into a liquid propellant propulsion system which has a total impulse capacity</p>

	<p>equal to or greater than 1,1 MNs having a total impulse capacity equal to or greater than 1,1 MNs; <b><i>except liquid propellant apogee engines designed or modified for satellite applications and having all of the following:</i></b></p> <ol style="list-style-type: none"> <li><b><i>1. nozzle throat diameter of 20 mm or less; and</i></b></li> <li><b><i>2. combustion chamber pressure of 15 bar or less.</i></b></li> </ol>
9A106.c.	<p>Systems or components, other than those specified in 9A006, usable in "missiles", as follows, specially designed for liquid rocket propulsion systems:</p> <p>c. Thrust vector control sub-systems, <b><i>except those designed for rocket systems that are not capable of delivering at least a 500 kg payload to a range of at least 300 km.</i></b></p> <p><i>Technical Note:</i></p> <p><i>Examples of methods of achieving thrust vector control specified in 9A106.c. are:</i></p> <ol style="list-style-type: none"> <li><i>1. Flexible nozzle;</i></li> <li><i>2. Fluid or secondary gas injection;</i></li> <li><i>3. Movable engine or nozzle;</i></li> <li><i>4. Deflection of exhaust gas stream (jet vanes or probes); or</i></li> <li><i>5. Thrust tabs.</i></li> </ol>
9A108.c.	<p>Components, other than those specified in 9A008, usable in 'missiles' as follows, specially designed for solid rocket propulsion systems:</p> <p>c. Thrust vector control sub-systems, <b><i>except those designed for rocket systems that are not capable of delivering at least a 500 kg payload to a range of at least 300 km.</i></b></p> <p><i>Technical Note:</i></p> <p><i>Examples of methods of achieving thrust vector control specified in 9A108.c. are:</i></p> <ol style="list-style-type: none"> <li><i>1. Flexible nozzle;</i></li> <li><i>2. Fluid or secondary gas injection;</i></li> <li><i>3. Movable engine or nozzle;</i></li> <li><i>4. Deflection of exhaust gas stream (jet vanes or probes); or</i></li> </ol>

		5. <i>Thrust tabs.</i>
9A116		<p>Reentry vehicles, usable in "missiles", and equipment designed or modified therefor, as follows, <b><i>except for reentry vehicles designed for non-weapon payloads:</i></b></p> <ul style="list-style-type: none"> <li>a. Reentry vehicles;</li> <li>b. Heat shields and components therefor fabricated of ceramic or ablative materials;</li> <li>c. Heat sinks and components therefor fabricated of light-weight, high heat capacity materials;</li> <li>d. Electronic equipment specially designed for reentry vehicles.</li> </ul>
9A119		Individual rocket stages, usable in complete rocket systems or unmanned aerial vehicles, capable of <b><i>delivering at least a 500 kg payload to</i></b> a range of 300 km, other than those specified in 9A005 or 9A007.a. <b><i>above</i></b>
9B115		Specially designed "production equipment" for the systems, sub-systems and components specified in 9A005, 9A007.a., 9A008.d., 9A105.a., 9A106.c., 9A108.c., 9A116 or 9A119 <b><i>above</i></b> .
9B116		Specially designed "production facilities" for the space launch vehicles specified in 9A004, or systems, sub-systems, and components specified in 9A005, 9A007.a., 9A008.d., 9A104, 9A105.a., 9A106.c., 9A108.c., 9A116 or 9A119 <b><i>above</i></b> .
9D101		'Software' specially designed for the 'use' of goods specified in 9B116 <b><i>above</i></b> .
9E001		"Technology" according to the General Technology Note for the "development" of equipment or "software" specified in 9A004, 9A005, 9A007.a., 9A008.d., 9B115, 9B116 or 9D101 <b><i>above</i></b> .
9E002		<p>"Technology" according to the General Technology Note for the "production" of equipment specified in 9A004, 9A005, 9A007.a., 9A008.d., 9B115 or 9B116 <b><i>above</i></b>.</p> <p><i>Note: For "technology" for the repair of controlled structures, laminates or materials, see 1E002.f.</i></p>
9E101		"Technology" according to the General Technology Note for the "development" or "production" of goods specified in 9A104, 9A105.a., 9A106.c., 9A108.c., 9A116 or 9A119 <b><i>above</i></b> .
9E102		"Technology" according to the General Technology Note for the "use" of space launch vehicles specified in 9A004, 9A005, 9A007.a., 9A008.d., 9A104, 9A105.a., 9A106.c., 9A108.c., 9A116, 9A119, 9B115, 9B116 or 9D101 <b><i>above</i></b> .

## Exemptions:

Annex IV does not control the following items of the MTCR technology:

1. that are transferred on the basis of orders pursuant to a contractual relationship placed by the European Space Agency (ESA) or that are transferred by ESA to accomplish its official tasks;
2. that are transferred on the basis of orders pursuant to a contractual relationship placed by a Member State's national space organisation or that are transferred by it to accomplish its official tasks;
3. that are transferred on the basis of orders pursuant to a contractual relationship placed in connection with a Union space launch development and production programme signed by two or more European governments;
4. that are transferred to a State-controlled space launching site in the territory of a Member State, unless that Member State controls such transfers within the terms of this Regulation.

## PART II

**(no National General Authorisation for intra-Union trade)**

### Items of the CWC (Chemical Weapons Convention)

1C351.d.4.		Ricin
1C351.d.5.		Saxitoxin

### Items of the NSG technology

*All Category 0 of Annex I is included in Annex IV, subject to the following:*

- 0C001: this item is not included in Annex IV.
- 0C002: this item is not included in Annex IV, with the exception of special fissile materials as follows:

- (a) separated plutonium;
- (b) 'uranium enriched in the isotopes 235 or 233' to more than 20 %.
- 0C003 only if for use in a "nuclear reactor" (within 0A001.a)
- 0D001 (software) is included in Annex IV except insofar as it relates to 0C001 or to those items of 0C002 that are excluded from Annex IV.
- 0E001 (technology) is included in Annex IV except insofar as these related to 0C001 or to those items of 0C002 that are excluded from Annex IV.

1B226	<p>Electromagnetic isotope separators designed for, or equipped with, single or multiple ion sources capable of providing a total ion beam current of 50 mA or greater.</p> <p><i>Note: 1B226 includes separators:</i></p> <p><i>a. Capable of enriching stable isotopes;</i></p> <p><i>b. With the ion sources and collectors both in the magnetic field and those configurations in which they are external to the field.</i></p>
1C012	<p>Materials as follows:</p> <p><i>Technical Note:</i></p> <p><i>These materials are typically used for nuclear heat sources.</i></p> <p>b. 'Previously separated' neptunium-237 in any form.</p> <p><i>Note: 1C012.b. does not control shipments with a neptunium-237 content of 1 g or less.</i></p>
1B231	<p>Tritium facilities or plants, and equipment therefor, as follows:</p> <p>a. Facilities or plants for the production, recovery, extraction, concentration, or handling of tritium;</p> <p>b. Equipment for tritium facilities or plants, as follows:</p> <ol style="list-style-type: none"> <li>1. Hydrogen or helium refrigeration units capable of cooling to 23 K (– 250 °C) or less, with heat removal capacity greater than 150 W;</li> <li>2. Hydrogen isotope storage or purification systems using metal hydrides as the storage or purification medium.</li> </ol>

1B233	<p>Lithium isotope separation facilities or plants, and equipment therefor, as follows:</p> <ol style="list-style-type: none"> <li>a. Facilities or plants for the separation of lithium isotopes;</li> <li>b. Equipment for the separation of lithium isotopes, as follows: <ol style="list-style-type: none"> <li>1. Packed liquid-liquid exchange columns specially designed for lithium amalgams;</li> <li>2. Mercury or lithium amalgam pumps;</li> <li>3. Lithium amalgam electrolysis cells;</li> <li>4. Evaporators for concentrated lithium hydroxide solution.</li> </ol> </li> </ol>
1C233	<p>Lithium enriched in the lithium-6 (<sup>6</sup>Li) isotope to greater than its natural isotopic abundance, and products or devices containing enriched lithium, as follows: elemental lithium, alloys, compounds, mixtures containing lithium, manufactures thereof, waste or scrap of any of the foregoing.</p> <p><i>Note: 1C233 does not control thermoluminescent dosimeters.</i></p> <p><i>Technical Note:</i></p> <p><i>The natural isotopic abundance of lithium-6 is approximately 6,5 weight % (7,5 atom %).</i></p>
1C235	<p>Tritium, tritium compounds, mixtures containing tritium in which the ratio of tritium to hydrogen atoms exceeds 1 part in 1000, and products or devices containing any of the foregoing.</p> <p><i>Note: 1C235 does not control a product or device containing less than <math>1,48 \times 10^3</math> GBq (40 Ci) of tritium.</i></p>
1E001	<p>"Technology" according to the General Technology Note for the "development" or "production" of equipment or materials specified in 1C012.b.</p>
1E201	<p>"Technology" according to the General Technology Note for the "use" of goods specified in 1B226, 1B231, 1B233, 1C233 or 1C235.</p>
3A228	<p>Switching devices, as follows:</p> <ol style="list-style-type: none"> <li>a. Cold-cathode tubes, whether gas filled or not, operating similarly to a spark gap, having all of the following characteristics: <ol style="list-style-type: none"> <li>1. Containing three or more electrodes;</li> <li>2. Anode peak voltage rating of 2,5 kV or more;</li> <li>3. Anode peak current rating of 100 A or more; <i>and</i></li> </ol> </li> </ol>

		<p>4. Anode delay time of 10 <math>\mu</math>s or less;</p> <p><i>Note: 3A228 includes gas krytron tubes and vacuum sprytron tubes.</i></p> <p>b. Triggered spark-gaps having both of the following characteristics:</p> <ol style="list-style-type: none"> <li>1. An anode delay time of 15 <math>\mu</math>s or less; <i>and</i></li> <li>2. Rated for a peak current of 500 A or more;</li> </ol>
3A231		<p>Neutron generator systems, including tubes, having both of the following characteristics:</p> <ol style="list-style-type: none"> <li>a. Designed for operation without an external vacuum system; <i>and</i></li> <li>b. Utilizing electrostatic acceleration to induce a tritium-deuterium nuclear reaction</li> </ol>
3E201		<p>"Technology" according to the General Technology Note for the "use" of equipment specified in 3A228 or 3A231.</p>
6A203		<p>Cameras and components, other than those specified in 6A003, as follows:</p> <ol style="list-style-type: none"> <li>a. <b>Mechanical rotating mirror</b> streak cameras, as follows, and specially designed components therefor: <ol style="list-style-type: none"> <li>1. Streak cameras with writing speeds greater than 0,5 mm per microsecond;</li> </ol> </li> <li>b. <b>Mechanical rotating mirror</b> framing cameras, as follows, and specially designed components therefor: <ol style="list-style-type: none"> <li>1. Framing cameras with recording rates greater than 225 000 frames per second;</li> </ol> <p><i>Note: In 6A203.a. components of such cameras include their synchronizing electronics units and rotor assemblies consisting of turbines, mirrors and bearings.</i></p> </li> </ol>
6A225		<p>Velocity interferometers for measuring velocities exceeding 1 km/s during time intervals of less than 10 microseconds.</p> <p><i>Note: 6A225 includes velocity interferometers such as VISARs (Velocity interferometer systems for any reflector) and DLIs (Doppler laser interferometers).</i></p>

6A226		<p>Pressure sensors, as follows:</p> <ul style="list-style-type: none"> <li>a. Manganin gauges for pressures greater than 10 GPa;</li> <li>b. Quartz pressure transducers for pressures greater than 10 GPa.</li> </ul>
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