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### WORKING PAPER

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### **WORKING DOCUMENT**

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From:	IE Delegation
To:	Working Party on Dual-Use Goods
Subject:	Ireland - comments on Articles discussed during the Video Meeting of the DUWP on 6th May 2020

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## Comments from Ireland on Articles discussed during the Video Meeting of the Dual-Use Working Party on 6<sup>th</sup> May 2020

### Article 20(5)

IE has concerns about a mandatory requirement for interconnection between the proposed new system for the exchange of information and the licensing system of member states, in the absence of an agreement on the level of access and the information to be accessible via the interconnection. Therefore, Ireland supports the current Presidency wording, “may”.

### Article 24(2)

IE believes that the term “items” must be qualified to make it clear that data will be aggregated and not presented at the most granular level e.g. 1A002.b.5. This will be necessary to protect commercial confidentiality in instances where the exporter would be easily identifiable from the detailed description of the goods. Therefore, IE proposes the alternative qualifier “**categories** of items” because this would mirror the terminology used in Annex 1 and it would be less ambiguous than “types”.

### Commission proposal for Article 4

Strictly speaking, Article 4.1 only applies to *dual-use* items within the definition of Article 2.1: “...*dual-use* items not listed...”. Therefore, the criteria in 4.1(a)-(d) should be cumulative. For example, the terrorism criteria would only apply to items that “*can be used for both civil and military purposes*” AND may be acquired by terrorists.

However, practically speaking, 4.1(a)-(d) in the COM’s proposal could effectively redefine ‘Dual-use’ to be much broader than the definition in Article 2.1. So, for example, agricultural fertiliser could be used by terrorists to make IEDs, even though it is not a Dual-Use item in the traditional sense. Would it be controlled under Article 4.1?

Therefore, the criteria in 4.1(a)-(d) must be narrow and sharply focused. Otherwise we risk controlling items well beyond the original and primary purpose of the Regulation, namely the prevention of the proliferation of WMD.

Under the RO PRES the Working Party agreed to keep the definition of Dual-use aligned with the regimes and IE would not support a change in this position.

Article 4 should provide a framework for controlling all emerging technologies with proliferation potential e.g. AI. Therefore, it should not single out Cybersecurity.

For these reasons, the Terrorism criterion 4.1(c) should be deleted from the catch-all. The Military End-Use and Human Rights criteria, 4.1(b),(d) should be linked to EU Restrictive Measures. This would also provide transparency for exporters and ensure consistency across the MS.