



Council of the European Union  
General Secretariat

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**Brussels, 14 May 2020**

**WK 5071/2020 INIT**

**LIMITE**

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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:	Revised compromise proposal on Article 20

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The Presidency is grateful for the Member States' comments received on previous compromise proposals, discussed at the informal DUWP video meeting on 6 May. Delegations will find attached a revised compromise proposal on Article 20, reflecting proposed changes submitted orally during the meeting and in written to the Presidency, and invites Delegations to mark their agreement or to provide further comments by **Monday 18 May, 4pm (CEST)** to be sent to the Secretariat: [non.proliferation@consilium.europa.eu](mailto:non.proliferation@consilium.europa.eu) with the Presidency in copy.

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WK 5071/2020 INIT

**LIMITE**

**EN**

**Possible text on the basis of nothing is agreed until everything is agreed principle**  
**PRES compromise proposals**

**Changes to the WK 2699/20 and WK 4497/20 are highlighted**

*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 Such~~ information **exchange** may include:

(a) ~~relevant and appropriate~~ **licensing data for issued authorisations, provided for each authorisation issued (e.g. including value and types of licence and related destinations, number of users of general authorisations).**

**Commented [A1]:** Deleted to shorten, as discussed in video-DUWP.

(b) **additional** information regarding the application of controls, **including information on the application of criteria set out in Art. 14.1.** ~~Additional data related to licensing data (such as number, value and types of licences and related destinations, number of users of general [...] authorisations, and, where available, volume and value of trade subject to intra-EU transfers, 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.

**Commented [A2]:** Some MS believe that this should not be deleted but stay even if there is no art. 8a because it relates correctly to art. 8 and remains useful anyway. Therefore the brackets can be taken out – irrespective of what happens with art. 8a/4.

**2.a** 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.

**3. 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.**

**Commented [A3]:** Suggestion for shortened paragraph 3. As discussed in video DUWP

**~~3 [new]. Member States and the Commission shall examine the implementation of Article 14(1) based on the information submitted pursuant to this Regulation and any further information a Member State may submit relating to selected cases of authorisations granted and denials issued. The Commission may submit analyses of authorisations and denials. This exchange may cover any or all relevant considerations, including the application of the criteria covered by Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, such as human rights. All participants and observers of the exchange 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>1</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 [...] ~~may, where appropriate~~ **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.

**Commented [A4]:** EP asked for 'shall'

**Commented [A5]:** Proposed by some MS after discussion in video DUWP

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. [...]

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