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WORKING DOCUMENT

From: General Secretariat of the Council
To: Antici Group (Simplification)

Subject: Omnibus V (Defence Readiness) - Presentation from the Commission (14 April)

Delegations will find enclosed a presentation on the Defence Readiness Omnibus presented by the Commission at the meeting of the Antici Group (Simplification) on 14 April.



**Defence Readiness Omnibus
Directive 2009/43/EC on
intra-EU transfers of defence-related products**

DEFIS A3

Transfer and Export control

Two distinct legal frameworks

Transfers of defence-related products (intra-EU)

- Regulated by Transfers Directive 2009/43/EC
- Expert group meetings chaired by European Commission

Exports of military equipment (extra-EU)

- National competence
- Common Position 2008/944/CFSP with assessment criteria
- Working Party on conventional arms chaired by EEAS

Common basis:

- Common Military List of the European Union (list of 22 product categories)



Existing safeguards for Member States in the Directive

- Transfers Directive 2009/43/EC, recital 7

" Harmonisation of the relevant laws and regulations of Member States should not prejudice the international obligations and commitments of the Member States nor their discretion as regards their policy on the export of defence-related products."

- Transfers Directive, Recital 28

"The degree of latitude of Member States in determining the terms and conditions of general, global and individual transfer licences should be flexible enough to allow on-going cooperation under the existing international framework on export control. As the decision to authorise or deny an export is, and should remain, at the discretion of each Member State, such cooperation should only stem from the voluntary coordination of export policies."



Existing safeguards for Member States in the Directive

Member States can:

- Determine terms and conditions of transfer licences, including **limitations on the export of products** and they may request **end-use(r) assurances** (art. 4.6) (export control provision)
- Determine the terms and conditions of transfer licences for components **on the basis of the sensitivity of the transfer** (art. 4.7)
- **Impose export limitations for sensitive transfers** of components (art. 4.8)
- **Withdraw/suspend/limit the use of transfer licences** for reasons of protection of essential security interests (art. 4.9)
- Lay down **conditions for registration prior to first use** of a general transfer licence (art. 5.4)

Defence Omnibus proposal does not limit or amend these existing safeguard provisions



What do implementing acts do?

PUBLIC

EU level: level playing field

Provide a **binding EU toolbox** by defining a minimum scope of products covered by mandatory GTLs

Ensure same rules for same (minimum scope of) products for all industrial actors in the EU

National level:

Member States can decide who gets access and under what conditions

