Resolution on implementation of Council Regulation (EC) No 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment

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The European Parliament adopted a resolution on implementation of Council Regulation (EC) No 1236 /2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

The resolution was tabled by the S&D, UE/NGL, ALDE, ECR and EPP groups.

Parliament calls on all Member States to inform the Commission immediately of the relevant penalties they have introduced for breaches of Council Regulation (EC) No 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. It recalls the obligation of all Member States under the Regulation to compile timely, public annual activity reports, and urges the Commission to write to Member States which have not supplied it with such reports calling on them to comply with their obligations. It asks them to include as a minimum in such reports: the number of applications received, the items involved and countries of destination for each application, as well as the decisions made on each of these applications, and reports of "null activity" if applicable.

It calls on the Commission and the Committee on Common Rules for Exports of Products to provide guidance and assistance to Member States to strengthen such penalties where they are insufficient or have not been introduced.

It urges the Commission to

- develop a model template for Member States’ annual activity reports in order to facilitate the compilation of these reports and to ensure their consistency;
- undertake a formal review, assisted by the Committee on Common Rules for Exports of Products of Member States' implementation and licensing activity under the Regulation, and to publish this review alongside the annual activity reports received from each Member State in each year since the Regulation entered into force;
- inform Parliament of activities undertaken to date to facilitate Member States' fulfilment of their obligations under the Regulation;
- provide Parliament with, and to publish, the information it has received from each Member State in each year since the Regulation entered into force and the full contents of Member States’ annual activity reports;
- review and update the list of items prohibited under Annex II of the Regulation to include spiked batons, fixed wall and floor restraints, leg irons, chains and shackles, thumb-cuffs, finger-cuffs and thumb-screws, stun-cuffs and other body-worn electric-shock stun devices;
- review and update the list of items controlled under Annex III of the Regulation to include handcuffs, batons and other hand-held impact devices, and portable electric-shock devices below 10 000 volts;
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establish a specific procedure to regularly review the lists of items in Annex II and Annex III, s mandated in the Regulation;

- come forward with a proposal to insert into the Regulation as soon as practicable a "torture end-use" clause, which would allow Member States, on the basis of prior information, to license and thus refuse the export of any items which pose a substantial risk of being used for capital punishment, torture or other ill-treatment by their destined end-users;
- come forward with a proposal to insert into the Regulation as soon as practicable a prohibition on the brokering of transactions by any European Union natural or legal person from any place involving international transfers that aims at funding trade in tools of torture, including sales and exports of items with no practical use other than for capital punishment, torture or other ill-treatment, as included in Annex II of the Regulation, and requiring Member States to introduce effective mechanisms to control the brokering of transactions involving transfers of any items listed in Annex III of the Regulation;
- come forward with a proposal to insert into the Regulation as soon as practicable a requirement for importers to obtain an import authorisation for the import of items listed in Annex III of the Regulation into the European Union, and for Member States to refuse such import authorisations where there are reasonable grounds to believe that such equipment might be used for torture or other ill-treatment either within the European Union or once further traded outside the European Union;
- consider means of removing the exemption from the requirement of import or export authorisations for Annex III items transiting through the European Union;
- conduct an urgent investigation to establish whether and when electric-shock stun belts or related parts, other electric-shock body-worn restraint devices, technical assistance or training have been transferred to any Member States prior to, or since, the introduction of the Regulation, to determine whether such devices have been deployed by any law enforcement or prison authorities in those countries and to report its findings to Parliament.

Parliament urges Member States to

- ensure that the procedures highlighted in the Regulation to share information regarding licensing decisions and implementation measures, either through the denial notification mechanism already established for military export denials in COARM, or through other effective procedures, are properly implemented;
- monitor technical assistance to third countries in order to prevent this technical assistance from being misused for the production of goods for the purpose of capital punishment or torture and other cruel, inhuman or degrading treatment or punishment.

It urges the Commission and Member States to:

- ensure that the Committee on Common Rules for Exports of Products meets on a regular basis, produces a clear timetable for a formal review of the Regulation, and establishes a procedure for timely investigations into possible breaches of the Regulation;
- promote international trade controls on equipment that could be used for capital punishment, torture and other ill-treatment at an international level, and particularly to work to expand the UN General Assembly's annual call 'to prevent and prohibit the production, trade, export and use of equipment that is specifically designed to inflict torture'.

Parliament strongly condemns any attempts by Member States or companies within the European Union to import electric-shock stun belts whose import is prohibited by the Regulation or other electric-shock body-worn restraint devices essentially similar in effect, although legal.

Lastly, recalling the 2008 update to the Guidelines to EU policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment, Parliament calls on the Council and Commission, in accordance with these Guidelines, to promote Council Regulation (EC) No 1236/2005 as

an example of best practice in meetings with third countries and to encourage third countries which export equipment whose import is prohibited by Council Regulation (EC) No 1236/2005 to make traders in those countries aware of the Regulation's prohibitions.