Dual-use items: Community regime for the control of exports, transfer, brokering and transit, update of the EU control list

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The Commission presents a report on the implementation of Regulation (EC) No 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items.

Evolution of the policy and regulatory framework

The legislative process for a modernisation of EU export controls, that started in 2016 as the European Parliament and the Council examined the Commission proposal, advanced in 2018 with the adoption of a report and position of the European Parliament on 17 January 2018. The Parliament's position includes 101 amendments demonstrating its broad support for more harmonised and effective controls, adapting the EU export control system to new threats associated with cyber-surveillance technologies and taking into consideration human rights as part of the overall thrust for more responsible value-based trade and a "Europe that protects". For its part, the Council continued to examine the proposal during 2018.

Amendments to Regulation (EC) No 428/2009 - technical changes

The 2018 EU control list introduced new controls on electro-optic modulators (3A001i) semiconductor manufacturing mask substrate blanks (3B001j and for Focal Plane Array (FPA) readout integrated circuits (ROIC) (6A002f). On the other hand, it removes control on robots with 3D image processing (2B007a), on technology for numerical control units (2E003b) and machine tool instruction generators (2E003d) and introduces new decontrols for ‘upgrade’ intrusion software (4D004), technology for ‘vulnerability disclosure’ and ‘cyber incident response’ (4E001) as well as on high speed cinema film recording and mechanical cameras (6A003a). The 2018 EU control list also incorporates changes to the controls on measuring and inspection equipment (2B006), marine gas turbines (9A002) and ground based spacecraft control equipment (9A004) as well as for flow-forming machines (2B109) to missile production, satellite navigation systems (7A105) to include regional as well as global systems and turbojet/fan engines (9A101).

The updated and consolidated EU Control List became applicable on 15 December 2018, thereby allowing the EU to adhere to its international commitments with regard to export controls and helping EU exporters where control parameters were relaxed.

The Commission also adopted on 19 December 2018 a proposal to amend the Regulation as part of a package of measures under a "no deal contingency plan" for certain sectors in the perspective of the United Kingdom’s withdrawal from the European Union. The proposal adds the United Kingdom to the list of destinations on EU001 in order to avoid disproportionate trade disruptions and excessive administrative burden for EU exports of dual-use items to the United Kingdom while preserving international and EU security.

Dual- Use Coordination Group (DUCG)

The DUCG held seven meetings during the reporting period, thus providing a forum for consultations on a number of topical issues concerning the implementation of the Regulation. DUCG experts also participated in a Technical Seminar in preparation of the United Kingdom's withdrawal from the European Union.

EU dual-use trade: items and destinations

In 2018, the Regulation primarily applied to the export of about 1846 dual-use "items" listed in Annex I (the EU Control List) and classified in 10 categories. These dual-use items relate to circa 1000 customs commodities, including chemicals, metals and non-metallic mineral products, computers, electronic and optical products, electrical equipment, machinery, vehicles and transport equipment etc. and typically fall at the high–tech end of this large, mixed commodity area. Statistical estimates of the relative importance of dual-use trade indicate that dual-use exports represent about 2.3% of EU total exports (intra and extra-EU), within a broad 'dual-use export domain' of customs commodities.

EU dual-use trade control: applications, licences, denials

The total value of applications reached EUR 50.2 billion and controlled dual-use exports thus represented 2.7% of total extra-EU exports. Authorised dual-use trade amounted to EUR 36.6 billion, representing 2.0% of total extra-EU exports, with a majority of transactions authorised under individual licenses (approx. 25600 single licenses issued in 2017) and global licenses (by their value). Only a small portion of exports were actually denied: approximately 631 denials were issued in 2017, representing about 1.5% of the value of controlled dual-use exports in that year, and 0.04% of total extra-EU exports.

Exercise of delegated acts

Since the entry into force of the delegation of competence in 2014, the Commission adopted five delegated acts.

The Commission invites the European Parliament and the Council to take note of this report in the context of proper exercise by the Commission of the powers delegated by the EU Regulation.