

Implementation of Catch-all Controls in France

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Liberté • Égalité • Fraternité
RÉPUBLIQUE FRANÇAISE

AMBASSADE DE FRANCE AU JAPON



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1. Catch-all Controls: What is The Rationale Behind?

- Control lists on dual-use items: strengths and weaknesses

- Impact of a catch-all clause:
 - Response to State's security concerns
 - Higher sense of responsibility for companies



2. Implementation in France: main Features

- Legal basis: EU regulation (EC) 428/2009

- Article 4: WMD-related

- « An authorisation shall be required for the export of dual-use items not listed in Annex I if the exporter has been informed (...) that the items in question are or may be intended, in their entirety or in part, for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons. »*

- Article 8: public security and human rights

- « A Member State may prohibit or impose an authorisation requirement on the export of dual-use items not listed in Annex I for reasons of public security or human rights considerations. »*



2. Implementation in France: Main Features

- Motivations for catch-all implementation:
 - Concerns pertaining to the item / its potential use / the country of destination
 - Lack of clarity:
 - Incomplete documentation / exporter unwilling to cooperate or unable to submit additional material
 - No clear distinction between the recipient and the end-user
 - Questionable export chain
 - Inconsistency between alleged use and quantities to be exported
 - Request from the exporter

REQUEST FROM EXPORTER



SBDU (Dual use export control service)

Contact point, reception of requests, administrative examination



Transmission of the valid request to all relevant administrations (weekly)

Non-sensitive case

SBDU

Autonomous treatment



Sensitive or difficult case

**CIBDU (Interministerial
commission for dual-use items)**

- Monthly meetings
- Consensus



**Decision by the ministry of
industry**



NOTIFICATION to the exporter

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3. Assessment and Key Challenges

- How to ensure there is no abuse from the authorities?
 - Need to rely on various sources of information :
 - Reputation of exporter/end-user/recipient country
 - Intelligence reports
 - Consultations with partners, notifications from export control regimes
 - Interagency process

- How to facilitate cooperation from the private sector?
 - Information-sharing
 - Ex-post controls
 - Sanctions

“Maximum of five years of imprisonment and a fine up to three times the value of the object of fraud in case of smuggling, import or export of dual-use items whose circulation is restricted by European regulations” (art.414 – Customs code)



Thank you for your attention.