



Recent developments in EU dual-use export controls

25th Asian Export Control Seminar

26 February 2018

Tokyo, Japan

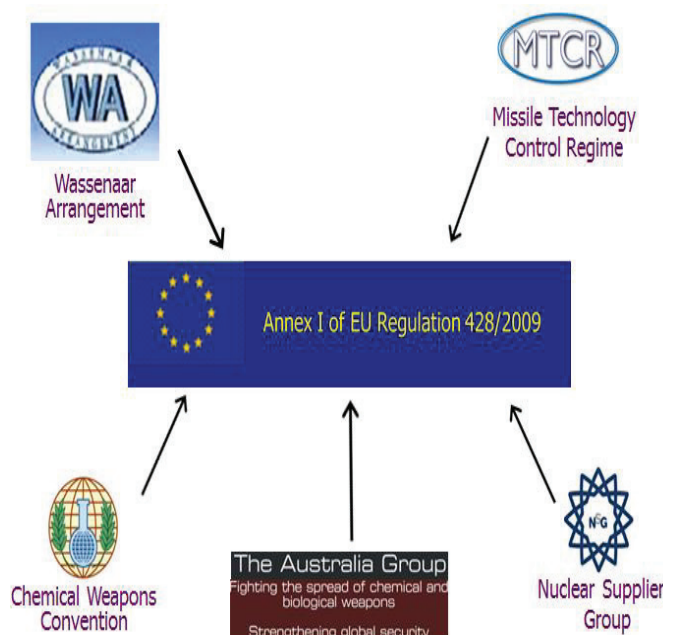
Stéphane CHARDON
DG TRADE
European Commission

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Updating Council Regulation (EC) No 428/2009

**Commission Delegated
Regulation (EU) No
2017/2268**
of 26 September 2017
(OJ L334/1, 15.12.2017):
updating Annex I in light of
decisions of export control
regimes in 2016.



Updating Regulation (EC) No 428/2009

Official Journal
of the European Union

L 334



English edition

Legislation

Volume 60
15 December 2017

Contents

II Non-legislative acts

REGULATIONS

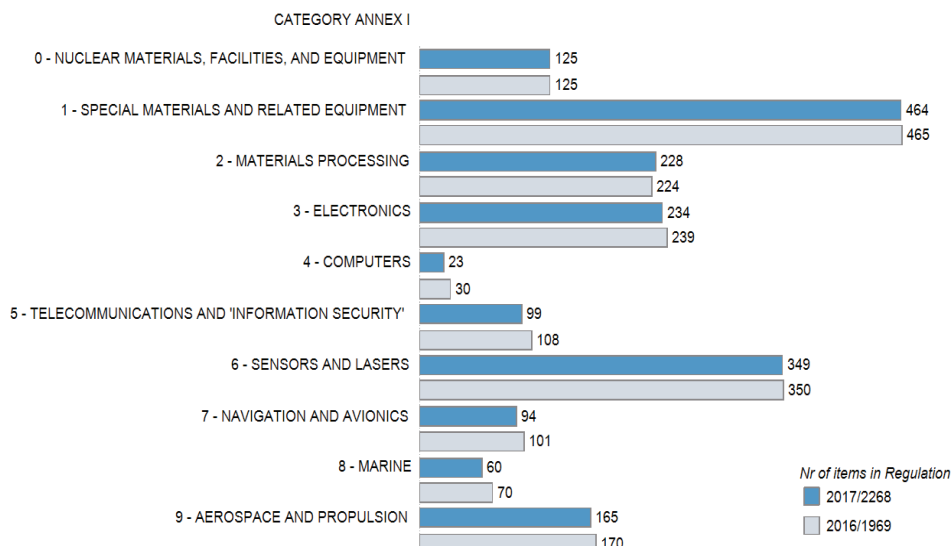
★ Commission Delegated Regulation (EU) 2017/2268 of 26 September 2017 amending Council Regulation (EC) No 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items 1

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Updating Regulation (EC) No 428/2009

Number of dual-use items listed in Categories of Annex I
(2016 / 2015 update)



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Implementing Regulation (EC) No 428/2009 The Dual Use Coordination Group (DUCG)

- Composed of **experts from EU Member States** and the **European Commission**
- **Technical consultations** in support of the preparation of a Commission Delegated Regulation updating the EU Control List
- **Technical information exchange** on the application of specific provisions (e.g. duration of licences, art. 22.10 of Reg. 428/2009 etc)
- Development of **EU Guidelines / Guidance notes**
- Development of the **Dual-Use Electronic System (DUeS)** (new functionalities, technical improvements, extension to dual-use sanctions)



Implementing Regulation (EC) No 428/2009 DUCG Technical Experts Groups

- **Surveillance technology expert group (STEG)**
- Technical Expert Group on the development of **ICP Guidelines (TEG-ICP)**
- Technical Expert Group on the development of **e-licensing systems (TEG - e-licensing)**
- **Pool of Experts** - technical advice on commodity classification for competent authorities

Updating National measures under Regulation (EC) No 428/2009

- **13 MS** are applying at least some provisions in relation to extension of **brokering controls**
- **15 MS** are applying at least some provisions in relation to extension of **transit controls**
- **12 MS** implement additional **controls for public security and human rights** (ex Art. 8.1)
- **9 MS** have **NGEAs** in line with Art. 9
- **6 MS** have **dedicated customs office** for DU export
- **9 MS** took additional measures to extend **intra-EU transfer controls** ex Art. 22.2

20.8.2016

EN

Official Journal of the European Union

C 304/3

NOTICES FROM MEMBER STATES

INFORMATION NOTE

Information on measures adopted by Member States in conformity with Articles 5, 6, 8, 9, 10, 17 and 22 of Council Regulation (EC) No 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items

(2016/C 304/03)

Articles 5, 6, 8, 9, 10, 17 and 22 of Council Regulation (EC) No 428/2009 (1) (hereunder 'the Regulation') set out that measures taken by Member States in implementation of the Regulation should be published in the *Official Journal of the European Union*.

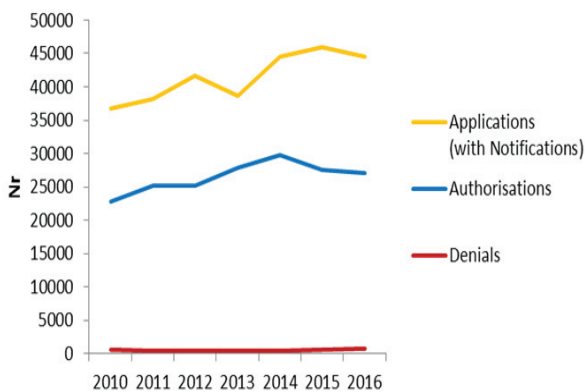
1. INFORMATION PROVIDED BY MEMBER STATES IN CONFORMITY WITH ARTICLE 5(2) OF THE REGULATION (EXTENSION OF BROKERING CONTROLS)

Article 5(2) in conjunction with Article 5(4) of the Regulation requires the Commission to publish measures taken by Member States and the publication of Article 5(2) in the *Official Journal of the European Union*.

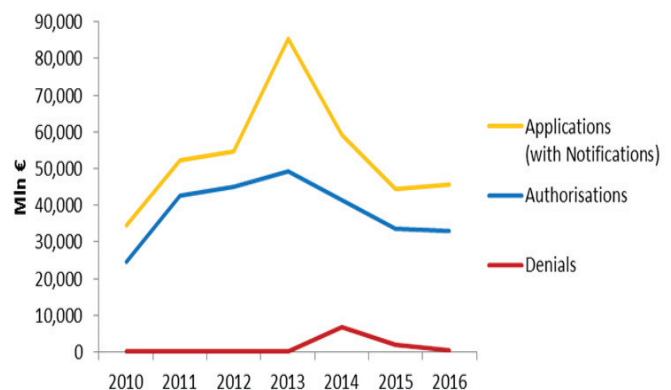


Information exchange and transparency 2016 Licensing data

Controlled Export Volume

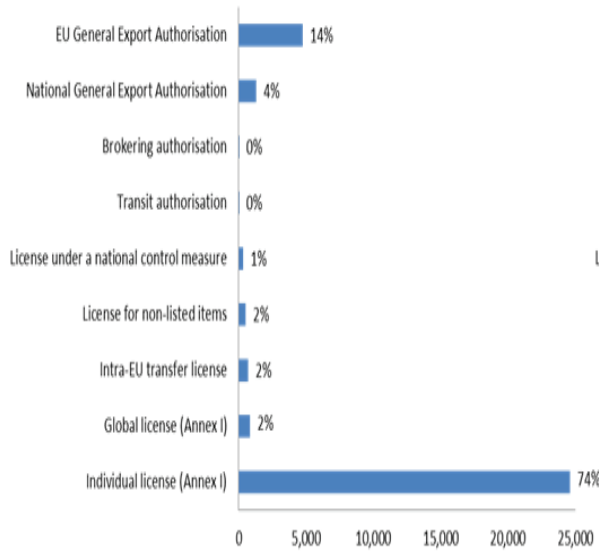


Controlled Export Value

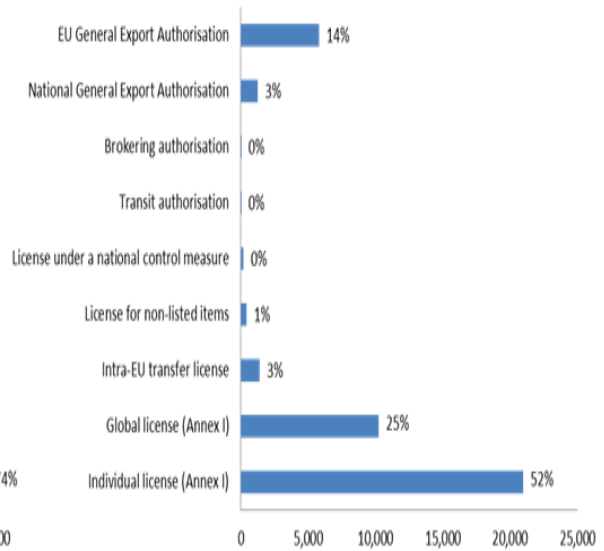


Information exchange and transparency

Authorised Export Volume by License Type in 2016



Authorised Export Value by License Type in 2016



Information exchange and transparency

Extra-EU destinations by value (2016)



Information exchange and transparency

- General exchange of information / **Information Notice** regarding national measures (C304/3, 20 August 2016)
- **Annual report:** COM(2017) 679, 21 November 2017
- Updated Dual-Use – Customs Nomenclature **Correlation Table**

Correlation table between export control classifications and Combined Nomenclature Code

CN code	TARIC Footnote for DU	Dual Use code
2612101000	DU017	0C001
2612109000	DU017	0C001
2612201000	DU017	0C001
2612209000	DU017	0C001
2620999500	DU017	0C001
2707100000	DU068	1C111
2707200000	DU068	1C111
2707300000	DU068	1C111
2707400000	DU068	1C111
2707500000	DU068	1C111
2707999900	DU068	1C111



Brussels, 21.11.2017
COM(2017) 679 final

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL
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



2013 STRATEGIC EXPORT CONTROL CONFERENCE

“Towards an export control policy review:
ensuring security and competitiveness in a changing world”

THE 2015 EXPORT CONTROL FORUM

The Export control policy review
ensuring security and competitiveness in a changing world



Wednesday, 26 June 2013



International / multilateral export control

- EU participation in multilateral export control regimes (Australia Group, Nuclear Suppliers Group)
- Bilateral contacts with third countries / export control convergence
- Enlargement process
- EU Outreach (P2P) project



The Export Control Policy Review

- 1 • 2003 WMD Strategy & European Security Strategy
• 2004 UNSCR 1540
- 2 • Regulation (EC) No 428/2009
• 2011 Green Paper (COM(2011)393) & SWD(2013)7
- 3 • 2013 Report to European Parliament & Council (COM(2013)710)
• 2014 Communication from the Commission (COM(2014)244)
- 4 • 2015 Impact Assessment
• Impact Assessment report COM(2016) 315
- 5 • COM proposal for a Regulation COM(2016)616 of 28 September 2016
- 6 • Legislative process (2017 - 2018?)

Adjusting to an evolving environment

Human Security

- Acknowledging the link between **security and human rights**
 - *Review definition of dual-use items (Art. 2.1)*
 - *Review control criteria – incl. human rights (Art. 14)*
 - *Introduce controls on cyber-surveillance technologies (Art. 3 - Annex I-B and Art. 4)*

Smart Security

- Enhancing the **capacity to adjust to technological change**
 - *Technical Expert Groups (Art. 21.3)*
 - *Guidance for exporters (Art. 24)*
 - *Regular updates of annexes: delegation of competence (Art. 16.6)*

Update of key control provisions

- Definition of export, exporter, determination of competent authority, jurisdiction clause, anti-circumvention clause...
- Controls on brokering, technical assistance and transit
- Control framework for intangible technology transfers (ITT) and Dual-use research (DURC)

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An Efficient & Competitive Export Control Regime

Harmonising EU Export Controls

- Common criteria and a **common risk management framework** (Art. 14)
- Harmonised brokering, technical assistance and transit controls
- Regular review of **NGEAs** & convergence with **EUGEAs**
- Possibility of **national control measures** (Art. 8)

Convergence in Catch-all Controls

- **Definition & scope** of catch-all controls (Art. 4.1 & 4.3)
- **Mandatory consultations**, Catch-all Database and EU-wide application (Art. 4.4)

Intra-EU Transfer Controls

- **General Transfer Authorisation** for intra-EU transfers of most sensitive items (Art. 2.15, 9 & 12, Annex IV-A)
- **Harmonised conditions** and optional post-shipment verification within the EU
- Review of **Annex IV** (updated list of items)

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Towards a global level-playing field

Flexible Control parameters

- **Update of EU control lists** (delegation of competence for Annex I-A and new Annex I-B and Annex IV-B)
- Efficient **management of general export authorisations** (Art. 6.3 - delegation of competence for Annex II)

Optimisation of Licensing Architecture

- Review **licence types & definitions** (e.g. global licence, licence for large projects)
- Shift to Open Licensing through **additional EUGEAs**:
 - *Low-value shipments (annex II-G / EU007)*
 - *Intra-company technology transfers (annex II-H / EU008)*
 - *Encryption (annex II-I / EU009)*
 - *Other dual-use items (annex II-J / EU010)*
- Harmonised **conditions & modalities of EUGEAs**

Global convergence

- **Cooperation & dialogue** with external partners – regulatory convergence, mutual recognition of assessments (Art. 27)

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Effective and Consistent Implementation & Enforcement

An efficient EU Export Control Network

- Enhanced **information sharing**: authorisations, catch-all, enforcement, etc (Art. 20.1 & 2)
- **Common IT infrastructure**: enhancement of Dual-Use Electronic System and interconnection with national systems (Art. 20.3)
- **Inter-agency cooperation** e.g. with customs (Art. 18.5)
- **Enforcement coordination** mechanism (Art. 22.2)
- **Anti-circumvention** clause (Art. 23)

Transparency and Partnership with stakeholders

- **Transparency**: public annual reports (Art. 24.2)
- **Common EU support tools**: guidance notes (Art. 24), electronic licensing (Art. 10.2, 11.5)
- **Industry compliance standards**: Internal compliance requirements (global licence, EUGEAs), due diligence
- **Stakeholder technical consultations**: Technical Expert Groups (Art. 21.3)

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European Parliament

European Parliament



Foreign Affairs Committee

- **Opinion on 30 May 2017**

Committee for International Trade

- **First reading report on 23 November 2017**

Plenary debate

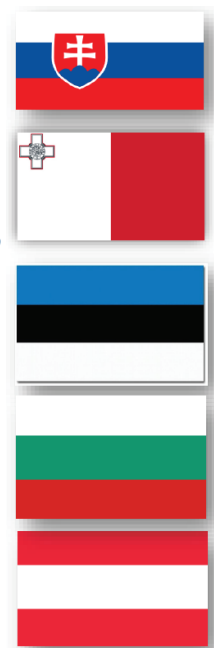
- **16 January 2018**
- **Mandate for opening interinstitutional negotiations with the Council (17 January 2018)**

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Council

- *Council Working Party on Dual-Use Goods*
- *Towards a first-reading position mid-2018?*
- *Trilogue in 2nd Semester 2018?*
- *New Regulation in 2019?*



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For more information: DG Trade website:

<http://ec.europa.eu/trade/import-and-export-rules/export-from-eu/dual-use-controls/>

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