



**COUNCIL OF
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NOTE

from : Working Party on Conventional Arms Exports (COARM)
to : Delegations

Subject : Commission proposal for a Directive of the European Parliament and of the Council on simplifying terms and conditions of transfers of defence-related products within the Community (doc. 16534/07)

Delegations will find attached a note agreed by the Working Party on Conventional Arms Exports (COARM), setting out the second-pillar implications of the Commission proposal for a Directive of the European Parliament and of the Council on simplifying terms and conditions of transfers of defence-related products within the Community (doc. 16534/07).

NOTE

(agreed by the Working Party on Conventional Arms Exports (COARM) on 7 April 2008 (further to a silence procedure) setting out the second pillar implications of the Commission proposal for a Directive of the European Parliament and of the Council on simplifying terms and conditions of transfers of defence-related products within the Community (doc. 16534/07)

Simplifying the terms and conditions of transfers of defence-related products within the Community is a major challenge for the internal market. The proposal for a Directive of the European Parliament and of the Council on simplifying terms and conditions of transfers of defence-related products within the Community should help to develop the European dimension of the defence industry, boost the competitiveness of Europe's defence technological and industrial base (DTIB), and foster the emergence of a more transparent and open European market in defence equipment.

However, transfers of defence-related products also raise issues affecting Member States' sovereignty and national security. Member States must therefore be able to continue to take such measures as they consider necessary for the protection of the essential interests of their security in accordance with Article 296 TEC.

It is also necessary to take into account the special nature of defence products. The proposal for a Directive acknowledges this special nature by maintaining mandatory prior authorisation for all transfers of defence products.

The export of defence products constitutes a strong political act at the heart of Member States' foreign policy. Consequently, exports of defence products to third countries must remain within the competence of Member States, both in terms of export regulation and export policies. Harmonisation of export policies must be handled exclusively within the CFSP framework and in particular that of the EU Code of Conduct on Arms Exports adopted by the Council in 1998.

The Working Party on Conventional Arms Exports should therefore be closely involved in the examination of the proposal for a Directive to be conducted by the Competitiveness and Growth configuration of the Council.

In addition, COARM notes that neither should the transfer between Member States of responsibility for monitoring, and decisions to export defence products outside the Community, deprive the Member State of origin of the possibility of placing conditions on the re-export by the recipients. Member States must therefore remain free to set the terms and conditions for re-exports in the different types of transfer licences foreseen by the Directive.

The expertise of the Working Party on Conventional Arms will be particularly useful in this regard. It will also be able to provide input to the discussions on the criteria for the certification of undertakings. These need to be proportionate and not overly bureaucratic but also robust and selective enough to give Member States adequate confidence in the ability of certified undertakings to comply with the terms and conditions for re-exports which might be included in transfer licences.
