



**COUNCIL OF
THE EUROPEAN UNION**

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DRAFT STATEMENT OF THE COUNCIL'S REASONS

Subject: Position of the Council at first reading with a view to the adoption of a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL amending Regulation (EC) No. 428/2009 setting up a Community
Regime for the control of exports, transfer, brokering and transit of dual use items

- Draft Statement of the Council's reasons

I. INTRODUCTION

On 7 November 2011 the Commission submitted to the European Parliament and to the Council its proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No. 428/2009 setting up a Community Regime for the control of exports, transfer, brokering and transit of dual use items.¹

The European Parliament adopted its position at first reading on 23 October 2012².

The "Trade Omnibus" package, which was under negotiation at that point in time, also contained proposals concerning delegated acts relevant to the present proposal. In order to ensure consistency among those regulations and the present proposal, it was agreed to await the outcome of the Trade Omnibus package.

In June 2013, a compromise was found concerning the Trade Omnibus package³. Subsequently, negotiations were pursued with a view to reaching an "early second reading agreement" on the present proposal.⁴

At the final informal trilogue meeting on 17 December 2013, provisional agreement on a compromise package was reached between the co-legislators.

On 21 January 2014, the Committee on International Trade of the European Parliament (INTA) approved the outcome of the trilogue negotiations.

¹ Doc. 16726/11.

² Doc. 15611/12.

³ Doc. 13284/13.

⁴ Docs 11454/13 and 12203/13.

On 21 January 2014, the Chair of INTA addressed a letter to the Presidency indicating that, should the Council transmit formally to the Parliament its position in the form that it was presented in the Annex to that letter, the Chair of INTA would recommend to the Plenary to accept the Council's position without amendment.

On that basis, the Council on 11 February 2014 (via COREPER on 29 January 2014) reached political agreement on the proposal.⁵

Taking into account the above agreement and after legal and linguistic revision, the Council adopted its position at first reading on [], in accordance with the ordinary legislative procedure laid down in Article 294 of the Treaty on the Functioning of the European Union (TFEU).

II. OBJECTIVE

The proposed Regulation aims at ensuring regular and timely updates, through Commission delegated acts, of the EU control list of dual-use items in conformity with the obligations and commitments taken by Member States within the international export control regimes. Furthermore, in order to allow for a swift EU response to changing circumstances as regards the assessment of the sensitivity of exports under EU General Export Authorisations, it provides for the removal of destinations from the scope of such Authorisations should this prove necessary in certain cases to ensure that only low-risk transactions are covered.

III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING

The Council agreed with the main thrust of the proposal as regards the procedure for updating the EU control list (Annex I) through delegated acts. Modifications were introduced regarding the following main issues:

⁵ Doc. 5480/14.

- A more explicit scope was provided for the delegated acts to remove destinations from the EU General Export Authorisations, i.e. if such destinations become subject to an arms embargo;
- The period of the conferral of the power of delegation to the Commission was specified to be five years, tacitly renewable;
- In case the updates of the EU control lists (Annex I) concern dual-use items which are also listed in certain other Annexes of the Regulation, those Annexes are to be amended accordingly.

In addition, the European Parliament, the Council and the Commission recognised, in a Joint Statement, the importance of continuously enhancing the effectiveness and coherence of the EU's strategic export controls regime, ensuring high level of security and adequate transparency without impeding competitiveness and legitimate trade in dual-use items. This will continue to be addressed also in the context of the on-going review of EU dual-use export control policy.

IV. CONCLUSION

The Council's Position at first reading reflects the compromise reached in negotiations between the Council and the European Parliament as also facilitated by the Commission. This compromise was endorsed through the adoption of a political agreement by the Council on 11 February 2014, via COREPER on 29 January 2014.

The Chair of the European Parliament's INTA Committee has indicated, in a letter of 21 January 2014, to the Presidency that, should the Council transmit formally to the Parliament its position in the form as it stands in the annex to that letter, he would recommend to the Plenary that the Council's position be accepted without amendment, subject to legal-linguistic verification, at the Parliament's second reading.