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NOTE

from:	General Secretariat
to:	Permanent Representatives Committee/Council
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) N° 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology - Outcome of the European Parliament's first reading (Strasbourg, 26 to 29 September 2011)

I. INTRODUCTION

On 4 April 2011, the Rapporteur, Jörg LEICHTFRIED (S&D, AT), presented a report on behalf of the Committee on International Trade, containing 46 amendments (amendments 1 - 46). In addition, the EPP political group presented four amendments (amendments 48 - 51) and the EUL/NGL group one amendment (amendment 47).

When it voted in plenary on 5 April 2011, the Parliament adopted 44 amendments (amendments 1 - 7, 9 - 22, 24 - 32, 34 -37, 39 - 41, 43 - 45, 48 - 51) , but did not adopt the amended proposal and therefore did not proceed to a vote on the legislative resolution, thereby not closing the first reading¹.

Subsequently, the Committee on International Trade tabled amendment 52.

No new debate took place.

II. VOTE

When it voted on 27 September 2011, the European Parliament adopted amendment 52.

The text of the amendment adopted and the European Parliament's legislative resolution are annexed to this note.

¹ See doc. 8528/11 for the debate and the details.

Dual-use items and technology ***I

European Parliament legislative resolution of 27 September 2011 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology (COM(2008)0854 – C7-0062/2010 – 2008/0249(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2008)0854),
 - having regard to Article 133 of the EC Treaty,
 - having regard to the Communication from the Commission to the European Parliament and the Council entitled "Consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures" (COM(2009)0665),
 - having regard to Article 294(3) and Article 207(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0062/2010),
 - having regard to Article 27 of Regulation (EC) No 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual use items (recast), pursuant to which Regulation (EC) No 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology has been repealed with effect from 27 August 2009,
 - having regard to the undertaking given by the Council representative by letter of 18 July 2011 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on International Trade and the opinion of the Committee on Foreign Affairs (A7-0028/2011),
1. Adopts its position at first reading hereinafter set out¹;
 2. Approves the joint statement by Parliament, the Council and the Commission annexed to this resolution;
 3. Takes note of the Commission statement annexed to this resolution;

¹ This position replaces the amendments adopted on 5 April 2011 (Texts adopted P7_TA(2011)0125).

4. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 27 September 2011 with a view to the adoption of Regulation (EU) No .../2011 of the European Parliament and of the Council 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 (recast)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty *on the Functioning of the European Union*, and in particular *Article 207(2)* thereof,

Having regard to the proposal from the European-Commission,

Acting in accordance with the ordinary legislative procedure¹,

Whereas:

- (1) *Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual use items (recast)²* requires dual-use items (including software and technology) to be subject to effective control when they are exported from *or transit through the Union, or are delivered to a third country as a result of brokering services provided by a broker resident or established in the Union.*
- (2) It is desirable to achieve uniform and consistent application of controls throughout the *Union* in order to avoid unfair competition among *Union* exporters, *harmonise the scope of Union General Export Authorisations and conditions of their use* among *Union* exporters and ensure efficiency *and effectiveness* of the security controls in the *Union*.
- (3) In its communication of 18 December 2006, the Commission put forward the idea of the creation of new *Union* General Export Authorisations in a bid to **█** enhance the industry's competitiveness and establish a level playing field for all *Union* exporters when they export certain *specific dual-use* items to certain *specific* destinations *while at the same time ensuring a high level of security and full compliance with international obligations.*
- (3a) *On 5 May 2009, the Council adopted Regulation (EC) No 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (recast). Accordingly, Regulation (EC) No 1334/2000 has been repealed with effect from 27 August 2009. The relevant provisions of Regulation (EC) No 1334/2000 continue to apply only for export authorisation applications made before 27 August 2009.*
- (4) In order to create new *Union* General Export Authorisations for the export of certain *specific* dual-use items to certain *specific destinations*, the relevant provisions of *Regulation (EC) No 428/2009* need to be amended by the addition of new Annexes.

¹ Position of the European Parliament of 27 September 2011.

² *OJ L 134, 29.5.2009, p. 1.*

(5) The competent authorities of the Member State where the exporter is established should be provided with the possibility of **prohibiting** the use of the **Union** General Export Authorisations **under the conditions set out in** Regulation (EC) No 428/2009 as amended by this Regulation **■** .

(5a) Since the entry into force of the Treaty of Lisbon, arms embargoes under the Union's common foreign and security policy are adopted by Council decisions. Pursuant to Article 9 of Protocol (No 36) on transitional provisions, the legal effects of common positions adopted by the Council under Title V of the Treaty on European Union prior to the entry into force of the Treaty of Lisbon are to be preserved until they are repealed, annulled or amended in implementation of the Treaties.

(6) **Regulation (EC) No 428/2009** should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 428/2009 is hereby amended as follows:

(-1) In Article 4(2), the introductory wording is replaced by the following:

"2. An authorisation shall also be required for the export of dual-use items not listed in Annex I if the purchasing country or country of destination is subject to an arms embargo decided by a decision or a common position adopted by the Council or a decision of the Organisation for Security and Cooperation in Europe (OSCE) or to an arms embargo imposed by a binding resolution of the Security Council of the United Nations and if the exporter has been informed by the authorities referred to in paragraph 1 that the items in question are or may be intended, in their entirety or in part, for a military end-use. For the purposes of this paragraph, "military end-use" shall mean:".

(1) **Article 9** is amended as follows:

(a) Paragraph 1 **is** replaced by the following:

"1. Union General Export Authorisations for certain exports as set out in Annexes IIa to **IIg** are established by this Regulation. The competent authorities of the Member State where the exporter is established can **prohibit the exporter from using** these authorisations **if there is reasonable suspicion about his ability to comply with an authorisation or with a provision of the export control legislation.**

The competent authorities of the Member States shall exchange information on exporters deprived of the right to use a Union General Export Authorisation, unless they determine that the exporter will not attempt to export dual use items through another Member State. The system referred to in Article 19(4) shall be used for this purpose."

(b) **In paragraph 4, point (a)** is replaced by the following:

"(a) exclude from their scope items listed in Annex IIIh";

(ba) In paragraph 4, point (c) is replaced by the following:

"(c) not be used if the exporter has been informed by his authorities that the items in question are or may be intended, in their entirety or in part, for any of the uses referred to in paragraphs 1 and 3 of Article 4 or in paragraph 2 of Article 4 in a country subject to an arms embargo decided by a decision or a common position adopted by the Council or a decision of the OSCE or to an arms embargo imposed by a binding resolution of the Security Council of the United Nations, or if the exporter is aware that the items are intended for the abovementioned uses."

(1a) In the first sentence of Article 11(1), the reference to "Annex II" is replaced by a reference to "Annex IIa".

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(2a) In Article 12(1), point (b) is replaced by the following:

"(b) their obligations under sanctions imposed by a decision or a common position adopted by the Council or by a decision of the OSCE or by a binding resolution of the Security Council of the United Nations".

(2b) In Article 13, paragraph 6 is replaced by the following:

"6. All notifications required under this Article shall be made via secure electronic means including the system referred to in Article 19(4)."

(2c) In Article 19, paragraph 4 is replaced by the following:

"4. A secure and encrypted system for the exchange of information between Member States and, whenever appropriate, the Commission shall be set up by the Commission, in consultation with the Dual-Use Coordination Group set up under Article 23. The European Parliament shall be informed about the system's budget, development, provisional and final set-up and functioning, and network costs."

(2d) In Article 23, the following paragraph is added:

"3. The Commission shall submit an annual report to the European Parliament on the activities, examinations and consultations of the Dual-Use Coordination Group, which shall be subject to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents."*

** OJ L 145, 31.5.2001, p. 43."*

(2e) Article 25 is replaced by the following:

"Article 25

1. *Each Member State shall inform the Commission of the laws, regulations and administrative provisions adopted in implementation of this Regulation, including the measures referred to in Article 24. The Commission shall forward the information to the other Member States.*
2. *Every three years the Commission shall review the implementation of this Regulation and present a comprehensive implementation and impact assessment report to the European Parliament and the Council on its application, which may include proposals for its amendment. Member States shall provide to the Commission all appropriate information for the preparation of the report.*
3. *Special sections of the report shall deal with:*
 - (a) *the Dual-Use Coordination Group and cover its activities. Information that the Commission provides on the Dual-Use Coordination Group's examinations and consultations shall be treated as confidential pursuant to Article 4 of Regulation (EC) No 1049/2001. Information shall in any case be considered to be confidential if its disclosure is likely to have a significantly adverse effect upon the supplier or the source of such information;*
 - (b) *the implementation of Article 19(4), and shall report on the stage reached in the set-up of the secure and encrypted system for the exchange of information between Member States and the Commission;*
 - (c) *the implementation of Article 15(1);*
 - (d) *the implementation of Article 15(2);*
 - (e) *comprehensive information provided on the measures taken by the Member States under Article 24 and notified to the Commission under paragraph 1 of this Article .*
4. *No later than 31 December 2013, the Commission shall submit to the European Parliament and to the Council a report evaluating the implementation of this Regulation with a specific focus on the implementation of Annex IIb, Union General Export Authorisation No EU002, accompanied by, if appropriate, a legislative proposal to amend this Regulation, in particular as regards the issue of low-value shipments."*

(2f) *The following Article is inserted:*

"Article 25a

Without prejudice to the provisions on mutual administrative assistance agreements or protocols in customs matters concluded between the Union and third countries, the Council may authorise the Commission to negotiate with third countries agreements providing for the mutual recognition of export controls of dual-use items covered by this Regulation and in particular to eliminate authorisation requirements for re-exports within the territory of

the Union. These negotiations shall be conducted in accordance with the procedures established in Article 207(3) of the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community, as appropriate."

(3) The Annexes are amended as follows:

(a) Annex II is renumbered as Annex IIa and is amended as follows:

(-i) the title is amended to read:

"Union General Export Authorisation No EU001 - exports to Australia, Canada, Japan, New Zealand, Norway, Switzerland, including Liechtenstein, and United States of America - Issuing authority: European Union";

(i) Part 1 *is amended to read:*

"This export authorisation is in accordance with Article 9(1) of this Regulation and covers all dual use items specified in any entry in Annex I to this Regulation, except those listed in Annex IIIh.";

(ii) Part 2 is deleted.

(iii) Part 3 is renumbered as Part 2 *and is amended as follows:*

- The word "Community" is amended to read "Union".

- The word "Switzerland" is amended to read "Switzerland, including Liechtenstein".

- The words "the Community General Export Authorisation" are replaced throughout by "this authorisation" or "this general export authorisation";

(b) *Annexes IIb to h*, as set out in Annex to this Regulation, are inserted.

Article 2

This Regulation shall enter into force on the thirtieth day following that of its publication in the *Official Journal of the European Union*.

Done at

For the European Parliament

The President

For the Council

The President

ANNEX

"Annex IIb

UNION GENERAL EXPORT AUTHORISATION No EU002

Exports of certain dual-use items to certain destinations

Issuing authority: European *Union*

Part 1 - Items

This general export authorisation *is* in accordance with *Article 9(1) of this Regulation and covers* the following *items set out in Annex I to this Regulation*:

- *1A001*
- *1A003,*
- *1A004*
- *1C003 b -c*
- *1C004*
- *1C005*
- *1C006*
- *1C008*
- *1C009*
- *2B008*
- *3A001a3*
- *3A001a6-12*
- *3A002c-f*
- *3C001*
- *3C002*
- *3C003*
- *3C004*
- *3C005*

- **3C006**

Part 2 - *Destinations*

This export authorisation is valid *throughout the Union* for exports to the following destinations:

- Argentina
- **Croatia**
- Iceland
- South Africa
- South Korea
- Turkey

Part 3 — Conditions and requirements for use

2. This authorisation does not authorise the export of items where:

- (1) the exporter has been informed by the competent authorities of the Member State in which he is established that the items in question are or may be intended, in their entirety or in part:
 - (a) 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,
 - (b) for *a* military end use *as defined in Article 4(2) of this Regulation in a* country **■** subject to an arms embargo imposed by a *decision* or a common position adopted by the Council or a decision of the OSCE or to an arms embargo imposed by a binding resolution of the Security Council of the United Nations, or
 - (c) for use as parts or components of military items listed in national military lists that have been exported from the territory of the Member State concerned without authorisation or in breach of an authorisation prescribed by the national legislation of that Member State;
- (2) the exporter, *under his obligation to exercise due diligence*, is aware that the items in question are intended, in their entirety or in part, for any of the uses referred to in subparagraph (1); **■**

- (3) *the relevant items are exported to a customs-free zone or a free warehouse which is located in a destination covered by this authorisation;*
3. *Exporters must mention the EU reference number X002 and specify that the items are being exported under Union General Export Authorisation EU002 in box 44 of the Single Administrative Document (SAD) .*
4. Any exporter who uses this authorisation must **notify** the competent authorities of the Member State where he is established (as defined in *Article 9(6) of this Regulation*) of the first use of **this** authorisation no later than 30 days after the date **when** the first export **takes place or, alternatively, and in accordance with a requirement by the authority of the Member State where the exporter is established, prior to the first use of this general export authorisation. Member States shall notify the Commission of the notification mechanism chosen for this general export authorisation. The Commission shall publish the information notified to it in the C series of the Official Journal of the European Union.**

Reporting requirements attached to the use of this general export authorisation and the additional information that the Member State from which the export is made might require on items exported under this authorisation are defined by Member States.

A Member State may require the exporters established in that Member State to register prior to the first use of this general export authorisation. Registration shall be automatic and acknowledged by the competent authorities to the exporter without delay and in any case within ten working days of receipt, subject to the first subparagraph of Article 9(1) of this Regulation.

Where applicable the requirements set out in the second and third paragraphs of this point shall be based on those defined for the use of national general export authorisations granted by those Member States which provide for such authorisations.

█

Annex II c

UNION GENERAL EXPORT AUTHORISATION No EU003

Export after Repair / Replacement

Issuing authority: European **Union**

Part 1 - Items

1-1) This general export authorisation is in accordance with **Article 9(1) of this Regulation** and covers the following items:

All dual-use items specified in any entry in Annex I except those listed in paragraph 1-2 below:

- (a) where the items were **re-imported** into the **customs territory of the Union** for the purpose of maintenance, repair **or replacement**, and are exported **or re-exported** to the country of consignment without any changes to their original characteristics **within a period of five years after the date when the original export authorisation has been granted**, or
- (b) where the items are exported to the country of consignment in exchange for items of the same quality and number which were re-imported into the **customs territory of the Union for maintenance**, repair or replacement **within a period of five years after the date when the original export authorisation has been granted**.

1-2) Items excluded:

- (a) All items specified in **Annex III**,
- (b) All items in sections D and E **■** ,

(ba) Items specified in:

- 1A002a
- 1C012a
- 1C227
- 1C228
- 1C229
- 1C230
- 1C231
- 1C236

- 1C237
- 1C240
- 1C350
- 1C450
- 5A001b5
- **5A002a2 to 5A002a9**
- 5B002 *Equipment as follows:*
 - (a) Equipment specially designed for the "development" *or* "production" of equipment specified by 5A002a2 to 5A002a9
 - (b) *Measuring equipment specially designed to evaluate and validate the "information security" functions of equipment specified by 5A002a2 to 5A002a9*
- 6A001a2a1
- 6A001a2a5
- 6A002a1c
- 6A008I3
- 8A001b
- 8A001d
- 9A011

Part 2 - Destinations

This export authorisation is valid throughout the *Union* for exports to the following destinations:

<p>Albania</p> <p>Argentina,</p> <p>Bosnia and Herzegovina</p> <p>Brazil</p> <p>■</p> <p>Chile</p> <p>China (<i>including Hong Kong and Macao</i>)</p>	<p>Mexico</p> <p>Montenegro</p> <p>Morocco</p> <p>Russia</p> <p>■</p> <p>Serbia</p> <p>Singapore</p>
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Croatia	■
The former Yugoslav Republic of Macedonia	South Africa
French Overseas Territories	South Korea
Iceland	■
India	Tunisia,
Kazakhstan	Turkey
	Ukraine
	United Arab Emirates
	■

Part 3 — Conditions and requirements for use

1. This authorisation can only be used when the initial export has taken place under a **Union** General Export Authorisation or an initial export authorisation has been granted by the competent authorities of the Member State where the original exporter was established for the export of the items which have subsequently been re-imported into the **customs** territory of **the Union** for the purposes of **maintenance**, repair or replacement. **This general authorisation is valid only for exports to the original end-user.**
2. This authorisation does not authorise the export of items where:
 - (1) the exporter has been informed by the competent authorities of the Member State in which he is established that the items in question are or may be intended, in their entirety or in part,
 - (a) 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,
 - (b) for a military end-use where the purchasing country or country of destination is subject to an arms embargo imposed by **a decision or** a common position ■ adopted by the Council or a decision of the OSCE or to an arms embargo imposed by a binding resolution of the Security Council of the United Nations, or
 - (c) for use as parts or components of military items listed in the national military list that have been exported from the territory of the Member State concerned without authorisation or in breach of an authorisation prescribed by the national legislation of that Member State;
 - (2) the exporter is aware that the items in question are intended, in their entirety or in part, for any of the uses referred to in sub-paragraph (1);

- (3) the relevant items are exported to a customs-free zone or a free warehouse which is located in a destination covered by this authorisation;
 - (4) the initial authorisation has been *annulled, suspended, modified, or* revoked;
 - (4a) *the exporter, under his obligation to exercise due diligence, is aware that the end use of the items in question is different from that specified in the original export authorisation.*
3. On exportation of any of the items pursuant to this authorisation, exporters must:
- (1) mention the reference number of the initial export authorisation in the export declaration to customs together with the name of the Member State that granted the authorisation. This should be mentioned together with the EU reference number X002 and a specification that the items are being exported under Union General Export Authorisation EU003 in box 44 of the Single Administrative Document (SAD);
 - (2) provide customs officers, if so requested, with documentary evidence of the date of importation of the items into the *Union*, of any *maintenance, repair or replacement of* the items carried out in the *Union* and of the fact that the items are being returned to the end user and the country from which they were imported into the *Union*.
4. Any exporter who uses this authorisation must notify the competent authorities of the Member State where he is established (as defined in *Article 9(6) of this Regulation*) of the first use of *this* authorisation no later than 30 days after the date when the first export takes place *or, alternatively, and in accordance with a requirement by the authority of the Member State where the exporter is established, prior to the first use of this general export authorisation*. *Member States shall notify the Commission of the notification mechanism chosen for this general export authorisation. The Commission shall publish the information notified to it in the C series of the Official Journal of the European Union.*
- Reporting requirements attached to the use of that authorisation and additional information that the Member State from which the export is made may require on items exported under that authorisation are defined by Member States.*
- A Member State may require the exporter established in that Member State to register prior to the first use of that authorisation. Registration shall be automatic and acknowledged by the competent authorities to the exporter without delay and in any case within ten working days of receipt of the registration request.*
- Where applicable the requirements set out in the second and third subparagraphs shall be based on those defined for the use of national general export authorisations granted by those Member States which provide for such authorisations.*
5. ■ This authorisation *covers items for "repair", "replacement" and "maintenance"*. This may involve coincidental improvement on the original items, e.g. resulting from the use of modern *spare parts* or from use of a later built standard for reliability or safety reasons, provided that this does not result in any enhancement to the functional capability of the items or provide the items with new or additional functions. ■

I

Annex II d

UNION EXPORT AUTHORISATION No EU004

Temporary export for exhibition or fair

Issuing authority: European *Union*

Part 1 - Items

1. This general export authorisation is in accordance with *Article 9(1) of this Regulation and covers* any items specified in any entry in Annex I *to this Regulation* except:

■

- (a) All items specified in Annex IIIh
- (b) All items in *section D (this does not include software necessary to the proper functioning of the equipment for the purpose of the demonstration)*

(ba) All items in section E

(bb) Items specified in:

- 1A002a

■

- 1C002.b.4

- 1C010

- 1C012.a

- 1C227

- 1C228

- 1C229

- 1C230

- 1C231

- 1C236

- 1C237

- 1C240

- 1C350

- 1C450
- █
- 5A001b5
- **5A002a2 to 5A002a9**
- 5B002 *Equipment as follows:*
 - (a) Equipment specially designed for the "development" *or* "production" of equipment █ specified by **5A002a2 to 5A002a9**
 - (b) *Measuring equipment specially designed to evaluate and validate the "information security" functions of equipment specified by 5A002a2 to 5A002a9*
- 6A001
- 6A002a
- 6A008I3
- 8A001b
- 8A001d
- 9A011

Part 2 - *Destinations*

This authorisation is valid throughout the *Union* for exports to the following destinations:

Albania, Argentina, Croatia, Bosnia and Herzegovina, Brazil, █ Chile, China (including Hong Kong and Macao), The former Yugoslav Republic of Macedonia, French Overseas Territories, Iceland, India, Kazakhstan, Mexico, Montenegro, Morocco, █ Russia, Serbia, Singapore, South Africa, South Korea, Tunisia, Turkey, Ukraine, United Arab Emirates

Part 3 - Conditions and requirements for use

- 1. ***This authorisation authorises the export of items listed in Part 1 on condition that the export concerns temporary export for exhibition or fair and that the items are re-imported within a period of 120 days after the initial export, complete and without modification, into the customs territory of the Union.***
- 1a. ***The competent authority of the Member State where the exporter is established (as defined in Article 9(6) of this Regulation) may on request of the exporter waive the requirement that the items are to be re-imported as stated in paragraph -1 above. For the waiver***

procedure, the procedure for individual authorisations laid down in Article 9(2) and Article 14(1) of this Regulation shall apply accordingly.

1. This ■ authorisation does not authorise the export of items where:
 - (1) the exporter has been informed by the competent authorities of the Member State in which he is established that *the items in question* are or may be intended, in their entirety or in part,
 - (a) 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,
 - (b) for a military end-use where the purchasing country or country of destination is subject to an arms embargo imposed by *a decision or* a common position ■ adopted by the Council or a decision of the OSCE or to an arms embargo imposed by a binding resolution of the Security Council of the United Nations, or
 - (c) for use as parts or components of military items listed in the national military list that have been exported from the territory of the Member State concerned without authorisation or in breach of an authorisation prescribed by the national legislation of that Member State;
 - (2) the exporter is aware that the items in question are intended, in their entirety or in part, for any of the uses referred to in *sub-paragraph (1)*;
 - (3) the relevant items are exported to a customs-free zone or a free warehouse which is located in a destination covered by this authorisation;
 - (4) the exporter has been informed by a competent authority, or is otherwise aware (e.g. from information received from the manufacturer), that the items in question have been classified by the competent authority as having a protective ■ national security classification marking, *equivalent to or above CONFIDENTIEL UE*;
 - (4a) *their return, in their original state, without the removal, copying or dissemination of any component or software, cannot be guaranteed by the exporter, or where a transfer of technology is connected with a presentation;*
 - (4b) *the relevant items are to be exported for a private presentation or demonstration (e.g. in in-house showrooms);*
 - (4c) *the relevant items are to be merged into any production process;*
 - (4d) *the relevant items are to be used for their intended purpose, except to the minimum extent required for effective demonstration, but without making specific test outputs available to third parties;*
 - (4e) *the export is to take place as a result of a commercial transaction, in particular as regards the sale, rental or lease of the relevant items;*

(4f) the relevant items are to be stored at an exhibition or fair only for the purpose of sale, rent or lease, without being presented or demonstrated;

(4g) the exporter makes any arrangement which would prevent him from keeping the relevant items under his control during the whole period of the temporary export.

2. *Exporters must mention the EU reference number X002 and specify that the items are being exported under Union General Export Authorisation EU004 in box 44 of the Single Administrative Document (SAD) .*

3. Any exporter who uses this authorisation must notify the competent authorities of the Member State where he is established (as defined in *Article 9(6) of this Regulation*) of the first use of this authorisation no later than 30 days after the date when the first export takes place *or, alternatively, and in accordance with a requirement by the authority of the Member State where the exporter is established, prior to the first use of this general export authorisation. Member States shall notify the Commission of the notification mechanism chosen for this general export authorisation. The Commission shall publish the information notified to it in the C series of the Official Journal of the European Union.*

Reporting requirements attached to the use of that authorisation and additional information that the Member State from which the export is made may require on items exported under that authorisation are defined by Member States.

A Member State may require exporters established in that Member State to register prior to the first use of that authorisation. Registration shall be automatic and acknowledged by the competent authorities to the exporter without delay and in any case within ten working days of receipt of the registration request.

Where applicable the requirements set out in the second and third subparagraphs shall be based on those defined for the use of national general export authorisations granted by those Member States which provide for such authorisations.

4. For the purpose of this authorisation, "exhibition *or fair*" means *commercial events of a specific duration at which several exhibitors make demonstrations of their products to trade visitors or to the general public.*

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Annex II

UNION GENERAL EXPORT AUTHORISATION No EU 005

Telecommunications ■

Issuing authority: European *Union*

Part 1 - Items

This export authorisation is in accordance with *Article 9(1) of this Regulation* and covers the following items in Annex I:

1. The following items of Category 5 Part I:
 - (a) Items, including specially designed or developed components and accessories therefore specified in 5A001b2 and 5A001c and d.
 - (b) Items specified in 5B001 and 5D001, where test, inspection and production equipment is concerned and software for items mentioned under a).
2. Technology controlled by 5E001a, where required for the installation, operation, maintenance or repair of items specified under 1 and intended for the same *end user*.

■

Part 2 - *Destinations*

This export authorisation is valid throughout the Union for exports to the following destinations:

■

Argentina, *China (including Hong Kong and Macao)*, Croatia, *India*, Russia, South Africa, South Korea, Turkey, Ukraine.

Part 3 - Conditions and requirements for use

1. This authorisation does not authorise the export of items where:
 - (1) the exporter has been informed by the competent authorities of the Member State in which he is established that they are or may be intended, in their entirety or in part,
 - (a) 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,

- (b) for a military end-use where the purchasing country or country of destination is subject to an arms embargo imposed by **a decision or** a common position adopted by the Council or a decision of the OSCE or to an arms embargo imposed by a binding resolution of the Security Council of the United Nations, or
- (c) for use as parts or components of military items listed in the national military list that have been exported from the territory of the Member State concerned without authorisation or in breach of an authorisation prescribed by the national legislation of that Member State;

(ca) for use in connection with a violation of human rights, democratic principles or freedom of speech as defined by the Charter of Fundamental Rights of the European Union, by using interception technologies and digital data transfer devices for monitoring mobile phones and text messages and targeted surveillance of internet use (e.g. via Monitoring Centres and Lawful Interception Gateways);

(2) the exporter, **under his obligation to exercise due diligence**, is aware that the items in question are intended, in their entirety or in part, for any of the uses referred to in **subparagraph 1**.

(2a) the exporter, under his obligation to exercise due diligence, is aware that the items will be re-exported to any destination other than those listed in Part 2 of this authorisation, those listed in Part 2 of the EU 001 or Member States.

2. This authorisation may not be used where the relevant items are exported to a customs-free zone or a free warehouse which is located in a destination covered by this authorisation.

2a. Exporters must mention the EU reference number X002 and specify that the items are being exported under Union General Export Authorisation EU005 in box 44 of the Single Administrative Document (SAD).

3. Any exporter who uses this authorisation must **notify** the competent authorities of the Member State where he is established (as defined in **Article 9(6) of this Regulation**) of the first use of **this** authorisation no later than 30 days after the date **when the first export takes place or, alternatively, and in accordance with a requirement by the authority of the Member State where the exporter is established, prior to the first use of this general export authorisation. Member States shall notify the Commission of the notification mechanism chosen for this general export authorisation. The Commission shall publish the information notified to it in the C series of the Official Journal of the European Union.**

Reporting requirements attached to the use of this authorisation and additional information that the Member State from which the export is made may require on items exported under that authorisation are defined by Member States.

A Member State may require exporters established in that Member State to register prior to the first use of that authorisation. Registration shall be automatic and acknowledged by the competent authorities to the exporter without delay and in any case within ten working days of receipt of the registration request.

Where applicable the requirements set out in the second and third subparagraphs shall be based on those defined for the use of national general export authorisations granted by those Member States which provide for such authorisations.

Annex IIg

UNION GENERAL EXPORT AUTHORISATION No EU006

Chemicals

Part 1 - Items

This export authorisation is in accordance with *Article 9(1) of this Regulation* and covers *the following* items included in Annex I:

1C350:

1. *Thiodiglycol (111-48-8);*
2. *Phosphorus oxychloride (10025-87-3);*
3. *Dimethyl methylphosphonate (756-79-6);*
5. *Methylphosphonyl dichloride (676-97-1);*
6. *Dimethyl phosphite (DMP) (868-85-9);*
7. *Phosphorus trichloride (7719-12-2);*
8. *Trimethyl phosphite (TMP) (121-45-9);*
9. *Thionyl chloride (7719-09-7);*
10. *3-Hydroxy-1-methylpiperidine (3554-74-3);*
11. *N,N-Diisopropyl-(beta)-aminoethyl chloride (96-79-7);*
12. *N,N-Diisopropyl-(beta)-aminoethane thiol (5842-07-9);*
13. *Quinuclidin-3-ol (1619-34-7);*
14. *Potassium fluoride (7789-23-3);*
15. *2-Chloroethanol (107-07-3);*
16. *Dimethylamine (124-40-3);*
17. *Diethyl ethylphosphonate (78-38-6);*
18. *Diethyl-N,N-dimethylphosphoramidate (2404-03-7);*
19. *Diethyl phosphite (762-04-9);*
20. *Dimethylamine hydrochloride (506-59-2);*

21. *Ethyl phosphinyl dichloride (1498-40-4);*
22. *Ethyl phosphonyl dichloride (1066-50-8);*
24. *Hydrogen fluoride (7664-39-3);*
25. *Methyl benzilate (76-89-1);*
26. *Methyl phosphinyl dichloride (676-83-5);*
27. *N,N-Diisopropyl-(beta)-amino ethanol (96-80-0);*
28. *Pinacolyl alcohol (464-07-3);*
30. *Triethyl phosphite (122-52-1);*
31. *Arsenic trichloride (7784-34-1);*
32. *Benzilic acid (76-93-7);*
33. *Diethyl methylphosphonite (15715-41-0);*
34. *Dimethyl ethylphosphonate (6163-75-3);*
35. *Ethyl phosphinyl difluoride (430-78-4);*
36. *ethyl phosphinyl difluoride (753-59-3);*
37. *3-Quinuclidone (3731-38-2);*
38. *Phosphorus pentachloride (10026-13-8);*
39. *Pinacolone (75-97-8);*
40. *Potassium cyanide (151-50-8);*
41. *Potassium bifluoride (7789-29-9);*
42. *Ammonium hydrogen fluoride or ammonium bifluoride (1341-49-7);*
43. *Sodium fluoride (7681-49-4);*
44. *Sodium bifluoride (1333-83-1);*
45. *Sodium cyanide (143-33-9);*
46. *Triethanolamine (102-71-6);*
47. *Phosphorus pentasulphide (1314-80-3);*

48. *Di-isopropylamine (108-18-9);*
49. *Diethylaminoethanol (100-37-8);*
50. *Sodium sulphide (1313-82-2);*
51. *Sulphur monochloride (10025-67-9);*
52. *Sulphur dichloride (10545-99-0);*
53. *Triethanolamine hydrochloride (637-39-8);*
54. *N,N-Diisopropyl-(Beta)-aminoethyl chloride hydrochloride (4261-68-1);*
55. *Methylphosphonic acid (993-13-5);*
56. *Diethyl methylphosphonate (683-08-9);*
57. *N,N-Dimethylaminophosphoryl dichloride (677-43-0);*
58. *Triisopropyl phosphite (116-17-6);*
59. *Ethyldiethanolamine (139-87-7);*
60. *O,O-Diethyl phosphorothioate (2465-65-8);*
61. *O,O-Diethyl phosphorodithioate (298-06-6);*
62. *Sodium hexafluorosilicate (16893-85-9);*
63. *Methylphosphonothioic dichloride (676-98-2).*

1C450 a:

4. *Phosgene: Carbonyl dichloride (75-44-5);*
5. *Cyanogen chloride (506-77-4);*
6. *Hydrogen cyanide (74-90-8);*
7. *Chloropicrin: Trichloronitromethane (76-06-2);*

1C450 b:

1. *Chemicals, other than those specified in the Military Goods Controls or in 1C350, containing a phosphorus atom to which is bonded one methyl, ethyl or propyl (normal or iso) group but not further carbon atoms;*
2. *N,N-Dialkyl [methyl, ethyl or propyl (normal or iso)] phosphoramidic dihalides, other than N,N-Dimethylaminophosphoryl dichloride which is specified in 1C350.57;*

3. *Dialkyl [methyl, ethyl or propyl (normal or iso)] N,N-dialkyl [methyl, ethyl or propyl (normal or iso)]-phosphoramidates, other than Diethyl-N,N-dimethylphosphoramidate which is specified in 1C350;*
4. *N,N-Dialkyl [methyl, ethyl or propyl (normal or iso)] aminoethyl-2-chlorides and corresponding protonated salts, other than N,N-Diisopropyl-(beta)-aminoethyl chloride or N,N-Diisopropyl-(beta)-aminoethyl chloride hydrochloride which are specified in 1C350;*
5. *N,N-Dialkyl [methyl, ethyl or propyl (normal or iso)] aminoethane-2-ols and corresponding protonated salts; other than N,N-Diisopropyl-(beta)-aminoethanol (96-80-0) and N,N-Diethylaminoethanol (100-37-8) which are specified in 1C350;*
6. *N,N-Dialkyl [methyl, ethyl or propyl (normal or iso)] aminoethane-2-thiols and corresponding protonated salts, other than N,N-Diisopropyl-(beta)-aminoethane thiol which is specified in 1C350;*
8. *Methyldiethanolamine (105-59-9).*

Part 2 - *Destinations*

This authorisation is valid throughout the *Union* for exports to the following destinations:

Argentina, *Croatia, Iceland, South Korea*, Turkey, █ Ukraine █ .

Part 3 - Conditions *and requirements for use*

1. This authorisation does not authorise the export of items where:
 - (1) the exporter has been informed by the competent authorities of the Member State in which he is established that they are or may be intended, in their entirety or in part,
 - (a) 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,
 - (b) for a military end-use where the purchasing country or country of destination is subject to an arms embargo imposed by *a decision or* a common position █ adopted by the Council or a decision of the OSCE or to an arms embargo imposed by a binding resolution of the Security Council of the United Nations, or
 - (c) for use as parts or components of military items listed in the national military list that have been exported from the territory of the Member State concerned without authorisation or in breach of an authorisation prescribed by the national legislation of that Member State;

(2) the exporter, ***under his obligation to exercise due diligence***, is aware that the items in question are intended, in their entirety or in part, for any of the uses referred to in ***subparagraph 1***;

(2a) ***the exporter, under his obligation to exercise due diligence, is aware that the items will be re-exported to any destination other than those listed in Part 2 of this authorisation, those listed in Part 2 of the EU001 or Member States.***

2. This authorisation may not be used when the relevant items are exported to a customs-free zone or a free warehouse which is located in a destination covered by this authorisation.

2a. ***Exporters must mention the EU reference number X002 and specify that the items are being exported under Union General Export Authorisation EU006 in box 44 of the Single Administrative Document (SAD).***

4. Any exporter who uses this authorisation must ***notify*** the competent authorities of the Member State where he is established (as defined in ***Article 9(6) of this Regulation***) of the first use of ***this*** authorisation no later than 30 days after the date ***when the first export takes place or, alternatively, and in accordance with a requirement by the authority of the Member State where the exporter is established, prior to the first use of this general export authorisation. Member States shall notify the Commission of the notification mechanism chosen for this general export authorisation. The Commission shall publish the information notified to it in the C series of the Official Journal of the European Union.***

Reporting requirements attached to the use of this authorisation and additional information that the Member State from which the export is made may require on items exported under that authorisation are defined by Member States.

A Member State may require exporters established in that Member State to register prior to the first use of that authorisation. Registration shall be automatic and acknowledged by the competent authorities to the exporter without delay and in any case within ten working days of receipt of the registration request.

Where applicable the requirements set out in the second and third subparagraphs shall be based on those defined for the use of national general export authorisations granted by those Member States which provide for such authorisations.

Annex IIh

(List referred to in *Article 9(4)(a) of this Regulation* and Annexes IIa, *IIc and* II d to this Regulation)

The entries do not always provide a complete description of the items and the related notes in Annex I. Only Annex I provides a complete description of the items.

The mention of an item in this Annex does not affect the application of the General Software Note (GSN) in Annex I.

- All items specified in Annex IV.
- 0C001 "Natural uranium" or "depleted uranium" or thorium in the form of metal, alloy, chemical compound or concentrate and any other material containing one or more of the foregoing.
- 0C002 "Special fissile materials" other than those specified in Annex IV.
- 0D001 "Software" specially designed or modified for the "development", "production" or "use" of goods specified in Category 0, insofar as it relates to 0C001 or to those items of 0C002 that are excluded from Annex IV.
- 0E001 "Technology" in accordance with the Nuclear Technology Note for the "development", "production" or "use" of goods specified in Category 0, insofar as it relates to 0C001 or to those items of 0C002 that are excluded from Annex IV.
- 1A102 Resaturated pyrolysed carbon-carbon components designed for space launch vehicles specified in 9A004 or sounding rockets specified in 9A104.
- 1C351 Human pathogens, zoonoses and "toxins".
- 1C352 Animal pathogens.
- 1C353 Genetic elements and genetically modified organisms.
- 1C354 Plant pathogens.
- ***1C450a.1. amiton: O,O-Diethyl S-[2-(diethylamino)ethyl] phosphorothiolate (78-53-5) and corresponding alkylated or protonated salts.***
- ***1C450a.2. PFIB: 1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene (382-21-8).***
- 7E104 "Technology" for the integration of flight control, guidance and propulsion data into a flight management system for optimisation of rocket system trajectory.
- 9A009.a. Hybrid rocket propulsion systems with total impulse capacity exceeding 1.1 MNs.
- 9A117 Staging mechanisms, separation mechanisms and interstages usable in "missiles".

ANNEX

Statement by the Commission:

The Commission intends to review this Regulation no later than 31 December 2013, in particular as regards assessing the possibility of introducing a General Export Authorisation on low-value shipments.

Statement by the European Parliament, the Council and the Commission on low-value shipments:

This Regulation does not affect the National General Export Authorisations on low value shipments issued by Member States in accordance with Article 9(4) of Regulation (EC) No 428/2009.