EU export controls
2019 "Necessities and Challenges"

Stéphane CHARDON
Coordinator for export controls
DG TRADE
European Commission

Export Control Day
« Necessities and challenges »
Berlin, 8 March 2019

2019 plans: to update the EU list of dual-use items

Commission Delegated Regulation (EU) 2018/1922
of 10 October 2018 updating Annex I in light of decisions of export control regimes in 2017

Publication in Official Journal on 14 Dec., entry into force on 15 Dec. 2018.

Official Journal

L 334

of the European Union

English edition | Legislation | Volume 60
15 December 2017

Content

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

itary applications.
to international
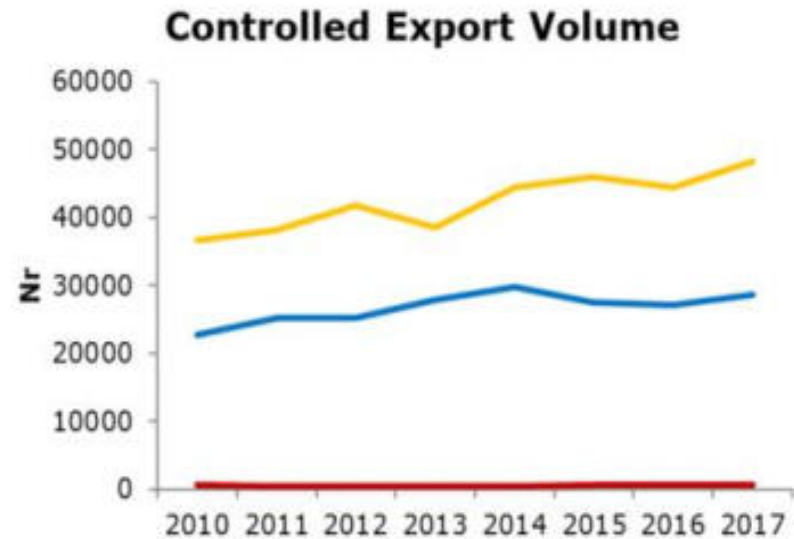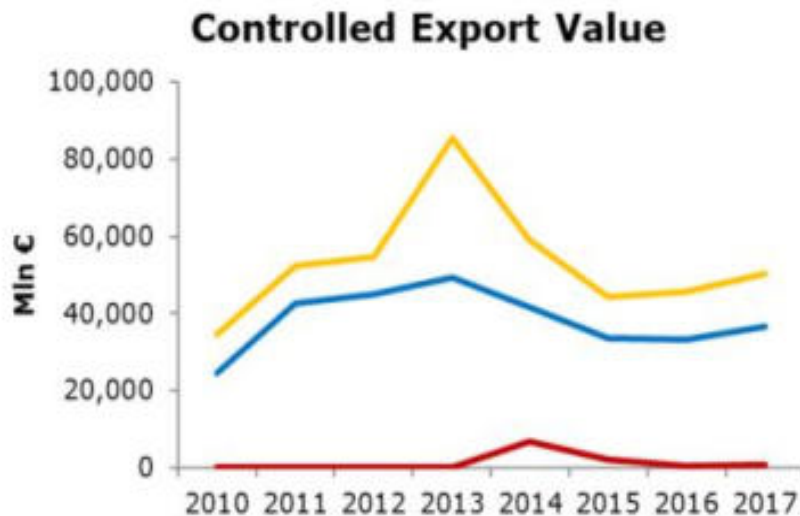
Latest news

17 Oct 2018
2018 Update of the EU Control List of Dual-Use Items

02 Oct 2018

2019 plans: to develop information exchange

Applications (with notifications) : EUR 50.2 Bln (2.7% of tot. extra-EU exp)
Authorisations: EUR 36.6 Bln (2.0% of tot. extra-EU exp)
Denials: EUR ~0.7 Bln (0.04% of tot. extra-EU exp)

2019 plans: to develop a secure IT infrastructure

- Continuous development of the Dual-Use electronic System (DUeS - new functionalities)

- Electronic licensing pilot project with IT, LV, RO, EL, WA

2019 plans: to improve industry outreach

- **Annual report:** COM(2017) 679, 21 November 2017
- **Information Notice** regarding national measures (C304/3, 20 August 2016)
- Updated Dual-Use – Customs **Correlation Table**
- 2019 **Export Control Forum**

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

EXPORT CONTROL FORUM 2018

An annual review of EU export controls

2019 plans: to develop Guidelines / Guidance notes

- Adoption of ICP guidelines – 1st Semester 2019
- Development of Guidelines for academia - TEG
- Guidance notes on technology transfers / cloud?

✗ EUSurvey   All public surveys

☑ Save a backup on your local computer (disable if you are using a public/shared computer)

Targeted industry consultation on draft ICP guidance

Introduction

Effective controls on exports of dual-use goods, software and technology are vital for countering the proliferation of Weapons of Mass Destruction (WMD) and the destabilising accumulations of conventional weapons. Taking into consideration rapid scientific and technological advancements, the complexity of modern supply chains and the ever growing significance of non-state actors, effective export controls greatly depend on the awareness and active commitment of industry to comply with dual-use export control regulations.

It is the responsibility of exporters dealing with dual-use items to comply with dual-use export control regulations and to refrain from participating in transactions where there are concerns that items are to be used for proliferation purposes. To this end, companies usually put in place a set of internal policies and procedures, also known as an "Internal Compliance Programme" (ICP), to ensure compliance with the relevant EU and national dual-use

Views
Standard Accessibility Mode

Languages
[EN] English ▾

Background Documents
Privacy_statement-
draft_ICP_guidance.pdf

Contact
TRADE-EXPORT-CONTROL-PUBLIC-
CONSULTATION@ec.europa.eu

2019 plans: to modernise EU export controls (1)

1 • Regulation (EC) No 428/2009

2 • 2013 Report to European Parliament & Council (COM(2013)710)

3 • 2014 Communication from the Commission (COM(2014)244)

4 • 2015 Impact Assessment report COM(2016) 315

5 • Legislative proposal COM(2016)616 of 28 September 2016

6 • Legislative process (2017 - 2019?)

2019 plans: to modernise EU export controls (2)

➢ 2017: work in INTA and AFET committees, technical briefings, public hearing

➢ Plenary debate and vote on the 1st reading report and mandate for interinstitutional negotiations with the Council (16-17 January 2018)

2019 plans: to modernise EU export controls (3)

- Council Working Party on Dual-Use Goods

- No qualified majority (QMV*) in support of a Council position in 2018

- What are the odds for 2019?

*Qualified Majority:
- Majority of countries: 55% (at least 16 MS)
- Majority of population: 65%.

2019 challenges: to clarify export control and human rights?

Human rights are *already* a « foreign policy » control criteria under Regulation (EC) 428/2009:

✓ *Art. 12(c) - ref. to CP 2009/844, incl. human rights*

✓ *Approx. 4% of EU denials based on human rights considerations*

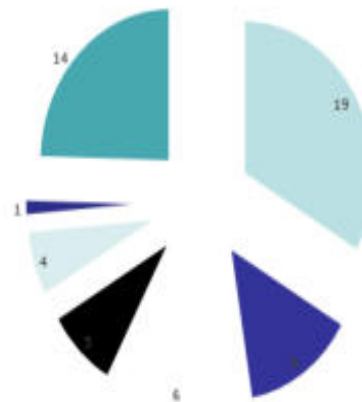WikiLeaks ✓
@wikileaks

Suivre

How a Saudi cyberwar ensnared Jamal Khashoggi

Opinion | How a chilling Saudi cyberwar ensnared Jamal Khashoggi
Inside the 21st-century battle of ideas waged by the fearful crown prince and a conniving courtier.
washingtonpost.com

14:57 - 9 déc. 2018

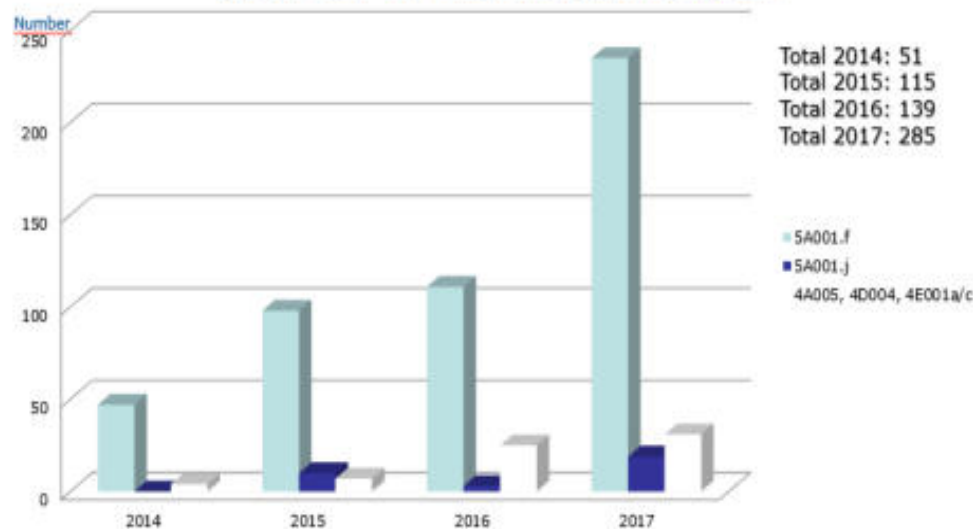**Reason/Criterion for Cat 4 and 5 Denials: 57 denials in 2017**

Number	Criterion
19	Respect for Human Rights
8	Internal Situation
6	Risk of diversion for military purposes
5	International obligations and commitments
4	National foreign and security policy considerations
1	Preservation of Regional Peace
14	Others-N/A
57	TOTAL denials Cat 4&5

· HR   · Internal   Diversion   · Intl. Commitn   Security   · Peace   · Others

2019 challenges: to control cyber/emerging technologies?

1. **Cybersurveillance technologies are *already* controlled under Regulation (EC) 428/2009:**

   ✓ *Telecom monitoring/jamming (5A001f), IP network surveillance (5A001j), intrusion software (4A005)*

   ✓ *Total EU: 139 licences and 17 denials (2016)*

Listed cyber-surveillance technologies
Number of individual licences

Total 2014: 51
Total 2015: 115
Total 2016: 139
Total 2017: 285

- 5A001.f
- 5A001.j
- 4A005, 4D004, 4E001a/c

European Commission

English EN   Search

Home > Priorities > A stronger global actor

PRIORITY

A stronger global actor

Strengthening the global role of Europe

Commissioner   High Representative Federica Mogherini | Johannes Hahn | Cecilia Malmström | Neven Mimica | Christos Stylianides
Related departments   European Neighbourhood Policy and Enlargement Negotiations | Trade | International Cooperation and Development |
                          European Civil Protection and Humanitarian Aid Operations

EU Global Strategy - Foreign po...

The EU needs a strong common foreign policy to

- respond efficiently to global challenges, including the crises in its
  neighbourhood
- project its values
- reject protectionism and keep EU trade standards

2019 challenges: to make a decision on EU controls?

Trade for all

Towards a more responsible trade and investment policy

THREE VISIONS, ONE DIRECTION

PLANS FOR THE FUTURE OF EUROPE
as laid out in President Juncker's *State of the Union*, President Macron's *Initiative for Europe*
and Chancellor Merkel's *Plans for European Reform*

European **Political Strategy** Centre

2019 challenges: harmonisation & level-playing field

- **Do we need the flexibility to introduce and adjust General Export Authorisations?**
  - ✓ *E.g. encryption, intra-company techno transfers, frequency changers/other items…*
  - ✓ *Amendment of annexes / EUGEAs through delegated acts*

- **Do we need updated and harmonised controls?**
  - ✓ *Should all EUMS apply similar controls on e.g. technology transfers, brokering, technical assistance, transit… ?*
  - ✓ *Should controls on non-listed items (« catch-all ») be coordinated?*
  - ✓ *Should the validity of licences be harmonised?*
  - ✓ *Should the convergence of (electronic) licensing by EUMS be promoted?*
  - ✓ *Should « partnership » with the private sector be supported?*

2019 challenges: Brexit

➢ 19 Dec. 2018: COM proposal to add the UK TO EUGEA 001 in case of no deal Brexit (« contingency measure »)

➢ DUWP technical agreement (23 January 2019) and INTA vote (13 March 2019) – adoption by simplified procedure?

➢ Entry into force on 30 March 2019? Only if "no deal".

N.B.: In case of deal, a transition period will apply

2019 challenges: US Export Control Reform Act

"to modernize U.S. export control regulation of… commercial, dual-use, and less sensitive defense items… the ECRA establishes a framework to protect critical and emerging U.S. technology and know-how."

Extension of Comment Period to 1/10/19: Review of Controls for Certain Emerging Technologies, extension notice published 12/14/18 (83 FR 64299)

For more information**:**

DG Trade website:

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

Contact: stephane.chardon@ec.europa.eu