



30th Annual GLOBAL TRADE CONTROLS AND COMPLIANCE

The modernisation of EU export controls – 2017 update

7-8 November 2017
The Hallam Conference Centre, London
W1

1



Updating Regulation (EC) No 428/2009

**Commission
Delegated Regulation
(EU) No 2016/1969**
of 12 September 2016
(OJ L307/1, 15.11.2016):
updating Annex I in light
of decisions of export
control regimes in 2015.



Wassenaar
Arrangement



Missile Technology
Control Regime



Chemical Weapons
Convention

The Australia Group
Fighting the spread of chemical and
biological weapons
Strengthening global security



Nuclear Supplier
Group



Updating Regulation (EC) No 428/2009

15.11.2016
EN
Official Journal of the European Union
L 307/1

II

(Non-legislative acts)

REGULATIONS



EUROPEAN COMMISSION

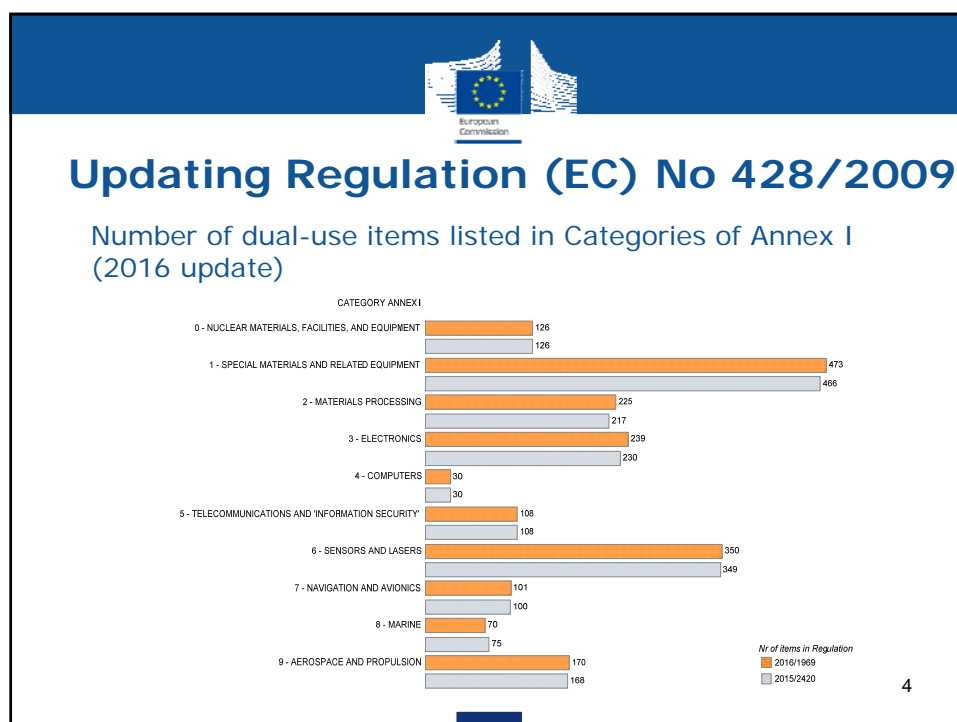
COMMISSION DELEGATED REGULATION (EU) 2016/1969
of 12 September 2016
amending Council Regulation (EC) No 428/2009 setting up a Community regime
exports, transfer, brokering and transit of dual-use items

THE EUROPEAN COMMISSION,

Brussels, 26.9.2017
C(2017) 6321 final

COMMISSION DELEGATED REGULATION (EU) .../...
of 26.9.2017
amending Council Regulation (EC) No 428/2009 setting up a Community regime

3





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



5



Implementation of Regulation 428/2009: the Dual Use Coordination Group

- **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**
- Development of the **Dual-Use Electronic System (DUeS)** (new functionalities, technical improvements, extension to sanctions)

6



Implementation of Regulation 428/2009 DUCG Technical Experts Groups

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

7



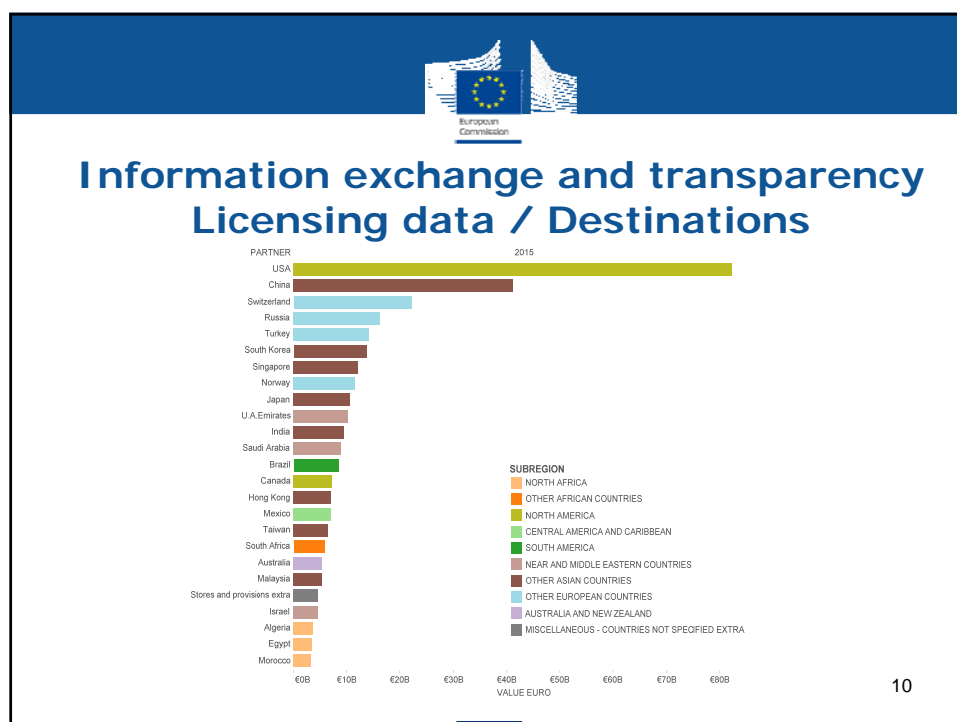
Information exchange and transparency

- General exchange of information / **Information Notice** regarding national measures (C304/3, 20 August 2016)
- Annual **export control report** (COM(2016) 521, 24 August 2016).
- Public **Guidance notes** – on the "cryptography note" (Guidance note 1/2016), and on the definition of "exporter" (Guidance note 2/2016).

- Updated Dual-Use – Customs Nomenclature **Correlation Table**

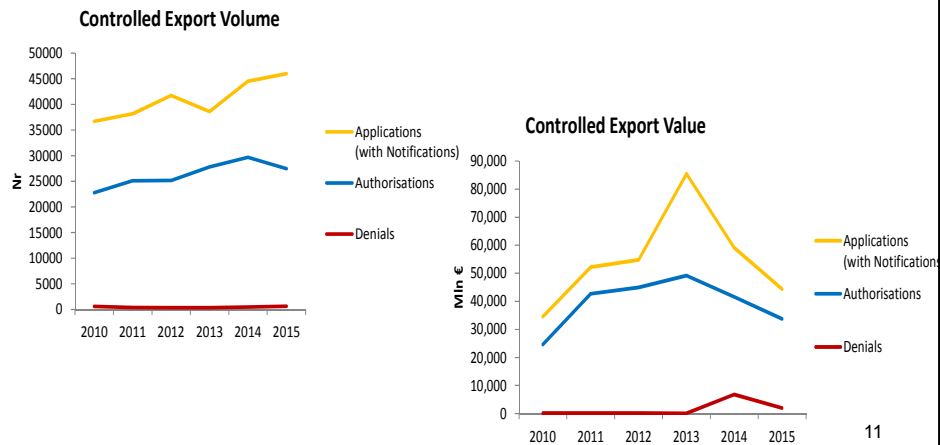
Correlation table between export control classifications and
Combined Nomenclature Code

CN code	TARIC Footnote for DU	Dual Use code
2612101000	DU017	OC001
2612109000	DU017	OC001
2612201000	DU017	OC001
2612209000	DU017	OC001
2620999500	DU017	OC001
2707100000	DU068	1C111
2707200000	DU068	1C111
2707300000	DU068	1C111
2707400000	DU068	1C111
2707500000	DU068	1C111





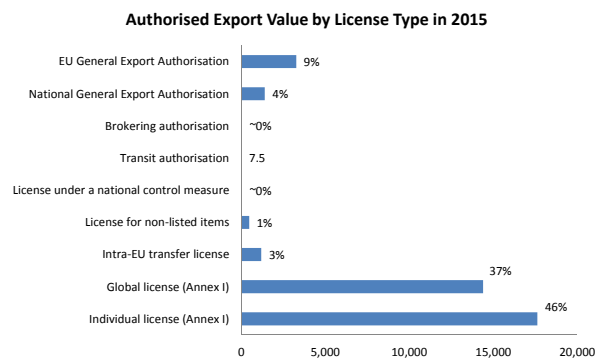
Information exchange and transparency 2015 Licensing data



11



Information exchange and transparency Licensing data /Values and volumes



12



International / multilateral export control

- EU participation in multilateral export control regimes (Australia Group, Nuclear Suppliers Group)
- Bilateral contacts with third countries / export control convergence (Norway, USA, China, Japan etc)
- Enlargement process
- EU Outreach projects



The Export Control Policy Review

- 1 • Regulation (EC) No 428/2009
• 2011 Green Paper (COM(2011)393) & SWD(2013)7
- 2 • 2013 Report to European Parliament & Council (COM(2013)710)
• 2014 Communication from the Commission (COM(2014)244)
- 3 • 2015 Impact Assessment / Impact Assessment report COM(2016) 315
- 4 • COM proposal for a Regulation COM(2016)616 of 28 September 2016
- 5 • Legislative process – EP position Nov-Dec. 2017?
• Council position?
- 6 • 2018 Trilogue?



COMMISSION PROPOSAL FOR THE MODERNISATION OF EU EXPORT CONTROLS

Upgrade of existing controls

- More efficient – simplification, reduction of administrative burden, level playing field
- More effective: address loopholes, ensure consistent application, update control parameters

The Human security dimension

- Prevent serious human rights violations associated with dual-use exports
- Ensure effective controls on exports of cyber-surveillance technologies
- Preserve the competitiveness of EU companies

15



European Parliament – 1st reading position

- Technical briefings (28 February 2017, 4 May 2017)
- Public hearing (21 March 2017).
- Draft INTA report, AFET opinion (April, May, June) ~ 425 AMs
- Adoption of draft report: November 2017
- EP Plenary vote: December 2017?



European Parliament

Key issues: *differentiated treatment for, and definition of, cyber-surveillance technology, scope of autonomous list and targeted human security control, due diligence, encryption controls, licensing (EUGEAs), transparency and role of stakeholders (industry and civil society),*



The Council – Dual-Use Working Party

- DUWP monthly meetings under MT and EE presidencies (capital-based)
- Finalisation of 1st reading position during Estonian Presidency?

Key issues: *EU autonomous human security controls and relation to multilateral export control regimes, definition of dual-use and cyber-surveillance technology, harmonised & simplified licensing processes (mandatory catch-all consultations, EUGEAs), transparency requirements (industry and civil society)*



17



Stakeholders – industry and civil society

- **Industry position papers** (Business Europe, ASD, CEFIC, Digital Europe, ESIA AmCham, BDI, DIHK, SIEPS, Orgalime, VDA, VDMA, WKK etc)

Key issues: *targeted human security controls, level-playing field, consistent / uniform licensing (EUGEAs), transparency and role of stakeholders (dual-use industry)*

- **Civil society papers**

Key issues: *human rights protection, cyber-surveillance technology controls, security research, encryption, transparency, uniform implementation EU-wide*







European Commission

For more information:

DG Trade dual-use website:

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

20