



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 17.10.2005  
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2005/0209 (ACC)

Proposal for a

**COUNCIL REGULATION**

**amending and updating Regulation (EC) No 1334/2000 setting up a Community regime  
for the control of exports of dual-use items and technology**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

Dual-use items (including software and technology) are civil items which can be used for military purposes. They are subject to control when they are to be exported from the European Union. Those controls aim in particular at preventing the proliferation of weapons of mass destruction. In particular, they meet the objectives set by the United Nations Security Council Resolution 1540 adopted in April 2004.

The decisions to control dual-use items are taken by consensus in international export control regimes and the EC is bound to apply them under article 11 of Regulation 1334/2000. This article stipulates that “the list of dual use items set out in Annex I shall be updated in conformity with the relevant obligations and commitments that each Member State has accepted as a member of the international export control arrangements”.

However, not all new EU Member States have yet been accepted in these regimes, in particular in the Missile Technology Control Regime (MTCR) and the Wassenaar Arrangement. This difference of status in export control regimes leads to discrepancies between EU Member States in access to important information on sensitive end-users. Hence, this weakens the EU export control regime and those international regimes in which not all EU Member States participate.

Since the adoption on 19 July 2004 of the last amendment of the Regulation, the Wassenaar Arrangement (WA), the Missile Technology Control Regime (MTCR) and the Australia Group (AG) have agreed on specific changes to their respective control lists. As a consequence, Annex I of the Council Regulation (EC) N° 1334/2000, which is based on article 133 of the Treaty, needs to be amended.

The Council Group in charge of dual-use items recommended that the Commission limits its proposals to those changes in the control lists which it agreed upon, i. e. those decided by the Wassenaar Arrangement in 2004, the Australia Group (in November 2004 and April 2005) and the Missile Technology Control Regime (in October 2004). It was understood that the Council would at unanimity amend the expected Commission proposal to integrate the very small changes to the Nuclear Suppliers’ Group lists adopted at its plenary meeting of June 2005.

To facilitate the decision making, a summary of the changes brought is detailed below.

<b>Category 1 in Annex I</b>	<b>Regime</b>	<b>Nature of change</b>
1C008.a.4.	WA	Text referring to ASTM, has been removed from sub-entry
1C008.b.	WA	ASTM measurement replaced by ISO in sub-entry
1C008.f.	WA	Sub-entry amended to include glass transition temperature
1C008. <i>Technical Note</i>	WA	ASTM measurement replaced by ISO in Technical Note
1C107.c.	MTCR	Control parameters of sub-entry revised.
1C350.6., 8., 29 & 42.	AG	Additional clarification of chemical names.
1C350.55., 56., 57., 58., 59., 60., 61., 62 & 63.	AG	9 chemicals added
1C350 <i>Notes 1, 2 &amp; 3</i>	AG	9 new chemicals added to relevant Notes
1C353 <i>Tech Note</i>	AG	Current Tech Note renumbered 1. and new Tech Note 2 added.
1C450.b. & <i>Note 3</i>	AG	Text amended .
1E201	Typo	Reference to 1C002.a.2.c. & d. changed to 1C002.b.3. & 4.[should have been updated when 1C002 was revised in 2001]
<b>Category 2</b>		
2B <i>Technical Note 2</i>	WA	Technical Note 2. amended
2B001.b.2. & 3.	Typo	Text 'or' moved from 2. to 3.
2B001.c.	WA	Note 2 of the note is amended to refer to positioning accuracy with existing subparagraphs a. and b. removed

2B005.a.	WA	Text "stored programme controlled" removed from sub-entry
2B005.b.	WA	Text "stored programme controlled" removed from sub-entry
2B005.c.	WA	Text "stored programme controlled" removed from sub-entry
2B005.d.	WA	Text "stored programme controlled" removed from sub-entry
2B005.e.	WA	Text "stored programme controlled" removed from sub-entry
2B005.f.	WA	Text "stored programme controlled" removed from sub-entry
2B005.g.	WA	Text "stored programme controlled" removed from sub-entry
2B006.h.	WA	Text "stored programme controlled" removed from sub-entry
2B105	Typo	Acronym CVD elaborated
2B116.a., c. & d.	MTCR	Text to sub-entries amended
2B206.b.	Typo	Typo in sub-entry corrected
2B350.i.	AG	Sub-entry text amended.
<b>Category 3</b>		
3A001.a.3.c.	WA	Scope of sub-enter amended.
3A001.a.5.a.1., 2., 3., 4. & 5.	WA	Sub-paragraphs 1., 2., 3. and 4. amended with new sub-paragraph 5. added
3A001.a.5. <i>Technical Note 2., 3. &amp; 4.</i>	WA	Technical Note 2. amended and new technical notes 3. & 4. added
3A002.c.1. 2. & 3.	WA	Sub-entry 1. amended and divided into sub-entries 1. and 2. ; existing sub-entry 2., with

		Note, renumbered 3.
3B001.c.1.a.	WA	Critical dimension in sub-paragraph reduced to 180 nm
3B001.c.2.a.	WA	Critical dimension in sub-paragraph reduced to 180 nm
3B001.f.1.a.	WA	Light source wavelength in sub-paragraph changed to 245 nm
3B001.f.1.b.	WA	Minimum resolvable feature size in sub-paragraph reduced to 180 nm
3B001.f.1.b. <i>Technical Note</i>	WA	In the formula for MRF, $\mu\text{m}$ changed to nm and K factor parameter changed to 0.45
3B002.	WA	Text “Stored programme controlled” removed
<b>Category 4</b>		
4A003.c., Note 1	WA	Text 4A003.d. deleted from Note
4D001.b.1.	WA	CTP values changed to 75,000 Mtops
4E001.b.1.	WA	CTP values changed to 75,000 Mtops
<b>Category 5 – Part 1</b>		
5A001.d.	WA	Parameter modified to 31.8 GHz
5A001.e.	WA	The text was moved from 7A007 to category 5 Part 1 and introduced as text in 5A001.e
<b>Category 6</b>		
6A001.a.2.a. (1-6)	WA	Sub-paragraph 1. divided into two sub-paragraphs 1. and 2.; original sub-paragraph 2. renumbered 3. and amended to include a new sub-paragraph; existing sub-paragraph 3., 4. & 5. renumbered 4., 5., & 6.

6A001.a.2.a. <i>Tech Note</i>	WA	New Technical Notes 1. and 2. added and existing Technical Note 2 named 3.
6A002.a. <i>N.B.</i>	WA	New N.B. added
6A002.a.3. <i>N.B. &amp; Note 2.</i>	WA	New N.B. added; Note 2.a. deleted and note b. and c. re-numbered a. and b.
6A002.a.3.c. <i>N.B.</i>	WA	New N.B. added
6A002.a.3.f. & <i>Tech Note</i>	WA	New sub-entry and Tech Note for microbolometer FPAs
6A003.b.4.a. & b.	WA	Sub-entry 4. further sub-divided into a. and b.
6A003.b.4 <i>Notes 1., 2. &amp; 3.</i>	WA	Original Note re-numbered 2. and two new Notes 1. and 3. added
6A003.b.4 <i>Notes 3. Tech Note</i>		2 new Technical Notes added to the note introduced as note 3 to section 6A003.b.4.
6A006	WA	Existing sub-paragraphs a., b., c., d., e., f., and g. amended and renumbered to sub-paragraphs a.1.a. & b., a.2., a.3., a.4.a., b. & c., a.5., b.1., 2. & 3. and c.; existing sub-paragraph h. deleted.
6E003.c.	WA	Entry for magnetometer technology deleted.
<b>Category 7</b>		
7A002, a. a.1 & 2. b., <i>Note &amp; Tech Note &amp; c.</i>	WA	Text to sub-entry a. and sub-paragraphs 1. and 2. amended; New sub-entry b. added together with a Note and Technical Note; Existing sub-entry b. renamed c.
7A007	WA	Control moved to 5A001.e.
7A116.c.	MTCR	Sub-entry text revised.

<b>Category 8</b>		
8A002.h.	WA	Text “Stored programme controlled” deleted from sub-entry
8A002.i.2. & <i>Note</i>	WA	Text “stored programme controlled” deleted from sub-paragraph and Note.
<b>Category 9</b>		
9A001.a., b. & <i>Note 1. &amp; 2.</i>	WA	Sub-paragraphs rewritten with existing sub-paragraphs a. and b. combined to form new sub-paragraph a. with new Notes 1. and 2.;  Existing sub-paragraph c. text amended with scope increase, Mach 1.2 to Mach 1, and renamed b.
9A105.a. & b.	MTCR	Sub-entries text amended.
9A106.d. & <i>Note a. &amp; b.</i>	MTCR	Text amended in sub-entries and Notes a. and b.
9A107	MTCR	Chapeau to control amended.
9A350	AG	New control on spraying/fogging systems. Includes 1 note to 9A 350c and 2 technical notes on 9A350 (a1 and a2)
9B106, a.1., 2. & <i>Tech Note</i>	MTCR	Text to sub-paragraphs amended;  Technical Note added.
9B106.b., 1. & 2.	MTCR	Text to sub-entry and sub-paragraphs amended.
9D001	AG	Text to control revised
9D002	AG	Text to control revised
9E001	AG	Control text revised to included technology for 9A350
9E002	AG	Control text revised to included technology for 9A350

## **Commission proposal**

In the light of the above considerations it is necessary to replace the Annexes of Regulation (EC) No 1334/2000.



Proposal for a

**COUNCIL REGULATION**

**amending and updating Regulation (EC) No 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

Whereas:

- (1) Regulation (EC) No 1334/2000<sup>2</sup> of 22 June 2000 requires dual-use items (including software and technology) to be subject to effective control when they are exported from the Community.
- (2) In order to enable the Member States and the Community to comply with their international commitments, Annex I to Regulation (EC) No 1334/2000 establishes the common list of dual-use items and technology referred to in Article 3 of that Regulation, which implements internationally agreed dual-use controls, including the Wassenaar Arrangement, the Missile Technology Control Regime (MTCR), the Nuclear Suppliers Group (NSG), the Australia Group and the Chemical Weapons Convention (CWC).
- (3) Article 11 of Council Regulation (EC) No 1334/2000 provides for Annex I and Annex IV to be updated in conformity with the relevant obligations and commitments, and any modifications thereof, that each Member State has accepted as a member of the international non-proliferation regimes and export control arrangements, or by ratification of relevant international treaties.
- (4) Annex I to Regulation (EC) N° 1334/2000 should be amended in order to take account of changes adopted by the Wassenaar Arrangement, the Australia Group and the Missile Technology Control Regime subsequent to the amendments made by Regulation 1504/2004 on 19 July 2004<sup>3</sup>.

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ L 159, 30.6.2000, p. 1. Regulation as last amended by Regulation (EC) N° 1504/2004, OJ L 281, 31.8.2004, p. 1.

<sup>3</sup> Regulation (EC) N° 1504/2004, OJ L 281, 31.8.2004, p. 1.

- (5) In order to ease references for export control authorities and operators, it is necessary to publish an updated and consolidated version of the Annexes to Regulation (EC) No 1334/2000.
- (6) Regulation (EC) No 1334/2000 should be amended accordingly.

HAS ADOPTED THIS REGULATION:

*Article 1*

The Annex to Regulation (EC) No 1334/2000 shall be replaced by the text in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on the 30<sup>th</sup> day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Council  
The President*

## FINANCIAL STATEMENT

1. **TITLE OF OPERATION:** Proposal for a Council Regulation (EC) amending and updating Regulation (EC) N° 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology
  
2. **BUDGET HEADING(S) INVOLVED:** NONE
  
3. **LEGAL BASIS:** ARTICLE 133 OF THE EC TREATY
  
4. **DESCRIPTION OF OPERATION:**
  - 4.1 **General objective:** TECHNICAL AMENDMENT OF ANNEXES I, II AND IV TO COUNCIL REGULATION (EC) No 1334/2000 (DUAL-USE); ANNEX III UNCHANGED
  
  - 4.2 **Period covered and arrangement for renewal.**  
**Indefinite**
  
5. **CLASSIFICATION OF EXPENDITURE OR REVENUE:** NOT APPLICABLE
  
6. **TYPE OF EXPENDITURE OR REVENUE:** NOT APPLICABLE
  
7. **FINANCIAL IMPACT:** NOT APPLICABLE
  
8. **FRAUD PREVENTION MEASURES:** NOT APPLICABLE
  
9. **ELEMENTS OF COST-EFFECTIVENESS ANALYSIS:** NOT APPLICABLE
  
10. **ADMINISTRATIVE EXPENDITURE (SECTION III, PART A OF THE BUDGET):** NOT APPLICABLE. THE EU MS ARE RESPONSIBLE FOR THE IMPLEMENTATION OF THE REGULATION IN PARTICULAR THE GRANTING OF EXPORT LICENCES FOR ALL THE ITEMS IN THE ANNEX (CONSIDERANT 6 WHICH READS AS FOLLOWS “THE RESPONSIBILITY FOR DECIDING ON APPLICATIONS FOR EXPORT AUTHORISATIONS LIES WITH NATIONAL AUTHORITIES, ARTICLE 3 AND 6 OF THE REGULATION 1334/2000)