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COMMISSION OF THE EUROPEAN COMMUNITIES

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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**

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 (EC) No 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 18 September 2007 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. Besides, the Wassenaar Medical Exemption for encryption items stated in its statement of understanding (*medical equipment [NF (96) DG PL/WPI]*) has not been implemented by the EU as yet (and yet has already been implemented in non-EU countries members of the Wassenaar Arrangement). As a consequence, Annex I of the Council Regulation (EC) No 1334/2000, which is based on Article 133 of the Treaty, needs to be amended.

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

DEFINITIONS in Annex I:

Acronyms & Definitions	Regime	Nature of change
ISA	WA	New acronym for International Standard Atmosphere.
Bias (accelerometer)	WA	Definition amended.
Bias (gyro)	WA	New definition.
Real-time bandwidth	Edit	Definition amended.
III/V compounds	WA	New definition.

CATEGORIES 1 to 9 in Annex I

Category 1	Regime	Nature of change
1A004.a., b., c. & <i>Tech Notes 1 & 2</i>	WA	Sub-entry text amended to clarify control of civil NBC equipment;

		Two new technical Notes added.
1A006, a., b., N.B., <i>Tech Note & Note</i>	WA	New control for IED disposal equipment with 2 sub-entries, Nota Bene, Note and Technical Note.
1A007, a., b.1. to 4., N.B. & <i>Tech Notes</i>	WA	New control for devices to ignite charges with 2 sub-entries, Nota Bene, and 2 Technical Notes.
1C111.a.3.a., b. & c.	MTCR	Sub-entries amended to include CAS numbers.
1C111.a.4. N.B.	Edit	Nota Bene added for clarity.
1C111.a.4.j.	MTCR	Sub-entry for Hydrazinium dinitrate added.
1C111.a.4.q.	MTCR	Sub-entries amended to clarify chemicals.
1C111.b.1. & 2.	MTCR	Sub-entries amended to clarify chemicals.
1C111.c.2. & 5.	MTCR	Sub-entries amended to include CAS numbers.
1C116 & <i>Tech Note</i>	MTCR	Entry for maraging steel amended for clarification; New Technical Note added.
1C352.a.2.b., b.1. & b.2.	AG08	Sub-paragraphs amended to reference new EC Directive
1E201	WA	Consequential change as a result of 1A007.
1E202	WA	Consequential change as a result of 1A007.
Category 2		
2B <i>Tech Note 5</i>	WA	Text amended in Note.
2B001 N.B.	WA	Nota Bene added for optical finishing machines.
2B002	WA	Entry amended.
2B002.c.	WA	Sub-entry changed from 3 to 4 axes (or more) machines.
2B002.d.4., 5. & <i>Tech Notes 4 & 5</i>	WA	Two new sub-entries for optical finishing machines; Two Technical Notes added.
2B006.b.1.c.2. & 2.b.	WA	Sub-paragraphs for measuring systems amended for clarification.
2B007.b. & <i>Note</i>	WA	Sub-paragraph for Robots amended; Note added.
2B008.a. N.B.	WA	Nota Bene amended.
2B008.b. N.B.	WA	Nota Bene amended.
2B116.a.	MTCR	Sub-entry for vibration test systems amended for

		clarification.
2B116.b.	Edit	Sub-entry amended to delete global definition of real-time bandwidth.
2B120.c.3.	MTCR	Sub-paragraph for motion simulators amended for clarification.
2B121.b.	MTCR	Sub-paragraph for positioning tables amended for clarification.
2B352.a. <i>Tech Note</i>	AG	Technical Note for biological containment facilities amended
Category 3		
3A001.a.2.	WA	Sub-entry amended to remove neural network integrated circuits.
3A001.b.4.	WA	Sub-entry for microwave solid state amplifiers amended.
3A001.b.7.	WA	Sub-entry for microwave mixers/converters amended.
3A001.b.8.	WA	Sub-entry for microwave power amplifiers amended.
3A001.c.1.a., b. & c.3.	WA	Parameters for carrier frequency and bandwidth amended for acoustic wave devices.
3A001.c.2.	WA	Parameter for frequency amended for bulk acoustic wave devices.
3A002.g. 1., 2. & 3.	WA	Entry for atomic frequency standards amended and now includes 3 new sub-entries.
3A229, a. & <i>NB</i>	WA	Consequential change as a result of 1A007. Chapeaux amended; sub-entry a. deleted; Nota Bene added.
3A232, a. & <i>NB</i>	WA	Consequential change as a result of 1A007. Chapeaux amended; sub-entry a. deleted; Nota Bene added; Tech Note deleted.
3B001.f.3., a. & b.	WA	Sub-entry for masking lithography equipment amended and now include 2 sub-paragraphs.
3C001.d.	WA	Sub-entry amended; Technical Note deleted.
3C002.e.	WA	New entry for certain imprint lithography resists.
3C005	WA	Entry amended to include additional electronic substrate material.
3C006	WA	New entry for certain electronic substrates.

Category 4		
4A001.a.1. <i>Note</i>	Edit	Text of Note amended for consistency.
4A003.a. <i>Note 3</i>	Edit	Text of Note amended.
4A003.c. <i>Note 1</i>	Edit	Text of Note amended for consistency.
Category 5 – Part 1		
5A001.b.1.	WA	Sub-entry text amended for underwater communication systems.
5A001.b.1.d.	WA	New sub-entry for certain underwater communication systems using lasers or LEDs.
5A001.f.	WA	Sub-entry for jamming equipment amended.
5A101	Edit	Text amended.
Category 5 Part 2		
<i>Note 1. NB</i>	WA	Nota Bene added
5A002 <i>Note a.1., e. & g.</i>	WA	Note a.1. amended for personal smart cards; Note e. amended for civil mobile communication equipment; New Note g. added for certain modified civil communication equipment.
Category 6		
6A001a.2.b.6.	WA	Sub-entry for certain hydrophone arrays deleted.
6A001.b., 1., 2., & <i>Notes 1 & 2</i>	WA	Sonar log sub-entry amended to include Doppler-velocity equipment; two new sub-entries; two new Notes added.
6A002.a.2. <i>Note & Tech Note</i>	WA	New Note and Technical Note added to sub-entry.
6A002.a.2.a.3.c. <i>Note</i>	Edit	Text of Note amended.
6A002.a.2.a., b., & c.	WA	Image intensifier tube sub-entry a. amended; new sub-entry b.; original sub-entry b. renumbered c. and amended.
6A002.a.3. <i>NB & Note 2.c & Tech Note</i>	WA	Nota Bene amended; New Note for focal plane arrays (FPA) using charge multiplication with Technical Note.
6A002.a.3.a.	WA	FPA sub-paragraph rewritten to include two new sub-

		paragraphs.
6A002.a.3.b.	WA	FPA sub-paragraph rewritten to include two new sub-paragraphs.
6A002.a.3.d. <i>Note & Tech Note</i>	WA	Note for certain FPA added; Technical Note amended and move to this sub-entry.
6A002.a.3.g.	WA	New sub-entry for charge multiplication FPA.
6A002.c.1., 2., 3. & <i>Note</i>	WA	Sub-entries 1. and 2. for direct view imaging equipment amended; New sub-entry 3. added; Note amended.
6A003.b.3.	WA	Sub-entry for imaging cameras incorporating intensifier tubes amended.
6A003.b.4.c., d. & <i>Note 4</i>	WA	Sub-entry for imaging cameras incorporating FPAs amended to include two new sub-entries; New Note 4 added.
6A003.b.5.	WA	New sub-entry for imaging cameras incorporating certain solid-state detectors.
6A205 N.B.	Edit	Nota Bene added for copper vapour lasers.
6E201	Edit	Entry amended to correct implementation of WA 2006 changes.
Category 7		
7A002.a. & c.	WA	Sub-entry gyros amended.
7A003.a, b., c. & <i>Note 1.a.</i>	WA	Sub-entries for inertial navigation equipment amended; Note 1.b. amended.
7A008 <i>N.B.</i>	WA	Nota Bene amended to include Doppler-velocity sonar log equipment.
7A103.a.1. & 2.	Edit	Consequential amendment to sub-entry, including 2 new sub-entries, as a result of the 2006 WA accelerometer changes.
Category 8		
No changes		
Category 9		
9A012.b.4.	WA	New sub-entry for certain UAV engines.
9A101.b.	MTCR	Sub-entry amended to include UAV turbojet and turbofan engines.

9A102, <i>Note & Tech Notes</i>	MTCR	New entry for certain UAV turbo engine systems with Note and two Technical Notes
9A106. a., b., c. & d.	MTCR	Entry and sub-entries for certain liquid rocket propulsion components amended.
9B106.a.1., 2. & <i>Tech Note 2 & 3</i>	MTCR	Sub-entry for environmental chambers amended to include a new sub-entry for those incorporating vibration test equipment; New Technical Note 2 added; Original Technical Note 2 renumbered 3.
9B106.b.3.	MTCR	Sub-entry for environmental chambers amended.
9B115	MTCR	Entry for certain production equipment amended.
9B116	MTCR	Entry for certain production facilities amended.
9D104	MTCR	Entry for certain missile related software amended.
9E003.a.4., 5. & <i>Tech Note</i>	WA	Sub-entries for technology related to certain turbine blade components amended; New Technical Note added.
9E101	MTCR	Entry amended.
9E102	MTCR	Entry amended.

ANNEX IV

1A007	Edit	New entry as a consequence of the new WA 1A007 entry.
3A229	Edit	Entry amended as a consequence of the new 1A007 entry.
3A232	Edit	Entry amended as a consequence of the new 1A007 entry.

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,

Whereas:

- (1) Council Regulation (EC) No 1334/2000¹ 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 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 and Annex IV to Regulation (EC) No 1334/2000 should be amended in order to take account of changes adopted by the Wassenaar Arrangement, the Australia Group and the MTCR subsequent to the amendments made to those Annexes by Regulation (EC) No 1183/2007.
- (5) In order to ease references for export control authorities and operators, an updated and consolidated version of the Annexes to Regulation (EC) No 1334/2000 should be published.
- (6) Regulation (EC) No 1334/2000 should therefore be amended accordingly,

¹ OJ L 159, 30.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 1183/2007 (OJ L 278, 22.10.2007, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

The Annexes 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 thirtieth 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