COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.04.2002
COM(2002) 184 final

2002/0085 (ACC)

Proposal for a

COUNCIL REGULATION

amending 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

Under Council Regulation (EC) No 1334/2000 of 22 June 2000, dual-use items (including software and technology) must be subject to effective control when they are exported from the Community.

Under Article 21 of the same Regulation, an authorisation is required for intra-Community transfers of the dual-use items and technology listed in Annex IV. This Annex includes in particular items subject to control in the context of the Nuclear Suppliers Group (NSG) and the Wassenaar Arrangement.

The political commitments made by the Member States of the EU in the context of the NSG or the Wassenaar Arrangement must be applied in strict compliance with the principles established by Community law, particularly the EC Treaty and the Euratom Treaty. Both Treaties establish the principle of the free movement of goods within the Community, and dual-use items are subject to this principle.

Annex IV to Regulation (EC) No 1334/2000 constitutes an exception to the principle of the free movement within the Community of dual-use items, arising from the political commitments made by the Member States and the sensitivity of the items concerned.

Since some of the items are less sensitive in terms of proliferation, control of their transfer within the Community under Regulation (EC) No 1334/2000 does not seem justified.

This proposal has no financial implications for the Community budget or SMEs.

Commission Proposal

It is therefore proposed to:

a) delete from Part 1 of Annex IV headings 3A002.g.2., 6A001.a.1.b.2., 6A001.a.1.b.3., 6A001.a.1.b.4, 6A001.a.1.b.5., 6A001.a.2.d., 8A002.o.3.a., 8A002.p. and 8D002 ;

b) delete from Part 2 of Annex IV headings 1C012.a., 3A201.a., 3A228.c., 6A203.b. and 6E201 ;

c) amend headings 1E001 and 3E201 of Part 2 of Annex IV as follows:

- 1E001 : “ Technology ” according to the General Technology Note for the “development” or “production” of equipment or materials specified in 1C012.b.

- 3E201 : “ Technology ” according to the General Technology Note for the “use” of equipment specified in 3A228.a., 3A228.b., 3A229, 3A231 or 3A232.

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amending 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,[1]

Whereas:

(1) Under Council Regulation (EC) No 1334/2000 of 22 June 2000,[2] dual-use items (including software and technology) must be subject to effective control when they are exported from the Community.

(2) Under Article 21 of Regulation (EC) No 1334/2000, an authorisation is required for intra-Community transfers of the dual-use items and technology listed in Annex IV to that Regulation. That Annex includes in particular items subject to control in the context of the Nuclear Suppliers Group (NSG) and the Wassenaar Arrangement.

(3) The political commitments made by the Member States in the context of the NSG or the Wassenaar Arrangement must be applied in strict compliance with the principles established by Community law, particularly the EC Treaty and the Euratom Treaty. Both Treaties establish the principle of the free movement of goods within the Community, and dual-use items are subject to this principle.

(4) Annex IV to Regulation (EC) No 1334/2000 constitutes an exception to the principle of the free movement within the Community of dual-use items. This exception arises from the political commitments made by the Member States and the sensitivity of the items concerned.

(5) Since some of the items are less sensitive in terms of proliferation, control of their transfer within the Community under Regulation (EC) No 1334/2000 does not seem justified.

(6) Regulation (EC) No 1334/2000 should be amended accordingly.

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[1] OJ C […], […], p. […].

[2] OJ L 159, 30.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 2432/2001 (OJ L 338, 20.12.2001, p. 2).

HAS ADOPTED THIS REGULATION:

Article 1

Annex IV to Regulation (EC) No 1334/2000 is amended as follows:

1) In part I, headings 3A002.g.2., 6A001.a.1.b.2., 6A001.a.1.b.3., 6A001.a.1.b.4., 6A001.a.1.b.5., 6A001.a.2.d., 8A002.o.3.a., 8A002.p. and 8D002 are deleted.

2) Part II is amended as follows:

a) Headings 1C012.a., 3A201.a., 3A228.c., 6A203.b. and 6E201 are deleted.

b) Heading 1E001 is replaced by the following:

" 1E001 “Technology” according to the General Technology Note for the “development” or “production” of equipment or materials specified in 1C012.b."

c) Heading 3E201 is replaced by the following:

"3E201 “Technology” according to the General Technology Note for the “use” of equipment specified in 3A228.a., 3A228.b., 3A229, 3A231 or 3A232."

Article 2

This Regulation shall enter into force on the fifth day following its publication in the *Official Journal of the European Communities.*

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

Done at Brussels, […]

For the Council
The President