

Tuesday 5 April 2011

ANNEX

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the mobilisation of the European Globalisation Adjustment Fund, in accordance with point 28 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (application EGF/2010/010 CZ/Unilever from the Czech Republic)

(The text of this annex is not reproduced here since it corresponds to the final act, Decision 2011/233/EU.)

Dual-use items and technology ***I

P7_TA(2011)0125

European Parliament amendments adopted on 5 April 2011 to the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology (COM(2008)0854 – C7-0062/2010 – 2008/0249(COD))

(2012/C 296 E/25)

(Ordinary legislative procedure: first reading)

The proposal was amended as follows ⁽¹⁾:

TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Amendment 1

Proposal for a regulation – amending act
Title

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

Regulation **of the European Parliament and of the Council** 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 (**recast**)

Amendment 2

Proposal for a regulation – amending act
Recital 1

(1) Council Regulation (EC) No 1334/2000 of 22 June 2000 **setting up a Community regime for the control of exports of dual-use items and technology** requires dual-use items (including software and technology) to be subject to effective control when they are exported from **the Community**.

(1) Council Regulation (EC) No 1334/2000 of 22 June 2000, **as amended by Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual use items ⁽¹⁾** requires dual-use items (including software and technology) to be subject to effective control when they are exported from **or transit through the Union, or are delivered to a third country as a result of brokering services provided by a broker resident or established in the Union**.

⁽¹⁾ OJ L 134, 29.5.2009, p. 1.

⁽¹⁾ The matter was then referred back to committee pursuant to Rule 57(2), second subparagraph (A7-0028/2011).

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Amendment 3**Proposal for a regulation – amending act****Recital 2**

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| <p>(2) It is desirable to achieve uniform and consistent application of controls throughout the Community in order to avoid unfair competition among Community exporters and ensure efficiency of the security controls in the Community.</p> | <p>(2) It is desirable to achieve uniform and consistent application of controls throughout the Union in order to avoid unfair competition among Union exporters, <i>harmonise the scope of general export authorisations and the conditions of their use</i> and ensure efficiency of the security controls in the Union.</p> |
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Amendment 4**Proposal for a regulation – amending act****Recital 3**

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| <p>(3) In its Communication of 18 December 2006, the Commission put forward the idea of the creation of new Community General Export Authorisations in a bid to simplify the current legal system, enhance the industry's competitiveness and establish a level playing field for all Community exporters when they export certain items to certain <i>destinations</i>.</p> | <p>(3) In its Communication of 18 December 2006, the Commission put forward the idea of the creation of new Union General Export Authorisations in a bid to simplify the current legal system, enhance the industry's competitiveness and establish a level playing field for all Union exporters when they export certain items to certain <i>countries of destination</i>.</p> |
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Amendment 5**Proposal for a regulation – amending act****Recital 3 a (new)**

- (3a) *On 5 May 2009, the Council adopted Regulation (EC) No 428/2009. Accordingly, Regulation (EC) No 1334/2000 was repealed with effect from 27 August 2009. The relevant provisions of Regulation (EC) No 1334/2000 continue to apply only for export authorisation applications made before 27 August 2009.*

Amendment 6**Proposal for a regulation – amending act****Recital 4**

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| <p>(4) In order to create new Community General Export Authorisations for certain <i>non-sensitive</i> dual-use items to certain <i>non-sensitive</i> countries, the relevant provisions of Regulation (EC) No 1334/2000 need to be amended by the addition of new Annexes.</p> | <p>(4) In order to create new Union General Export Authorisations for certain <i>specific</i> dual-use items to certain <i>specific</i> countries, the relevant provisions of Regulation (EC) No 428/2009 need to be amended by the addition of new Annexes.</p> |
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Amendment 7**Proposal for a regulation – amending act****Recital 5**

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| <p>(5) The competent authorities of the Member State where the exporter is established should be provided with the possibility of not permitting the use of the Community General Export Authorisations foreseen in this Regulation where the exporter has been sanctioned of an export-related offence punishable by the withdrawal of the right to use these authorisations.</p> | <p>(5) The competent authorities of the Member State where the exporter is established should be provided with the possibility of not permitting the use of the Union General Export Authorisations foreseen in this Regulation where the exporter has been sanctioned because of an export-related offence punishable by the withdrawal of the right to use these authorisations.</p> |
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Amendment 9**Proposal for a regulation – amending act****Recital 6**

- (6) **Regulation (EC) No 1334/2000** should therefore be amended accordingly.
- (6) **Regulation (EC) No 428/2009** should therefore be amended accordingly.

Amendment 10**Proposal for a regulation – amending act****Article 1 – point 2 a (new)**

Regulation (EC) No 428/2009

Article 13 – paragraph 6

- (2a) *In Article 13, paragraph 6 is replaced by the following:*

‘6. All notifications required under this Article will be made via secure electronic means including [...] a secure system that shall be set up in accordance with Article 19(4).’

Amendment 11**Proposal for a regulation – amending act****Article 1 – point 2 b (new)**

Regulation (EC) No 428/2009

Article 19 – paragraph 4

- (2b) *In Article 19, paragraph 4 is replaced by the following:*

‘4. A secure and encrypted system for the exchange of information among Member States and whenever appropriate the Commission shall be set up by the Commission, in consultation with the Dual-Use Coordination Group set up under Article 23. The European Parliament shall be informed about the system’s budget, development, provisional and final set-up and functioning, and network costs.’

Amendment 12**Proposal for a regulation – amending act****Article 1 – point 2 c (new)**

Regulation (EC) No 428/2009

Article 23 - paragraph 2 a (new)

- (2c) *In Article 23, a new paragraph is added after paragraph 2:*

‘2a. The Chair of the Dual-Use Coordination Group shall submit an annual report to the European Parliament on its activities, questions examined and consultations as well as a list of exporters, brokers and stakeholders that have been consulted.’

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Amendment 13**Proposal for a regulation – amending act****Article 1 – point 2 d (new)**

Regulation (EC) No 428/2009

Article 25

(2d) *Article 25 is replaced by the following:*

‘Article 25

Review and reporting

1. Each Member State shall inform the Commission of the laws, regulations and administrative provisions adopted in implementation of this Regulation, including the measures referred to in Article 24. The Commission shall forward the information to the other Member States.

2. Every three years the Commission shall review the implementation of this Regulation and present a comprehensive implementation and impact assessment report to the European Parliament and the Council on its application, which may include proposals for its amendment. Member States shall provide to the Commission all appropriate information for the preparation of the report.

3. Special sections of the report shall deal with:

(a) the Dual-Use Coordination Group and cover its activities, questions examined and consultations as well as a list of exporters, brokers and stakeholders that have been consulted;

(b) the implementation of Article 19(4), and shall contain a report on the stage reached in the set-up of the secure and encrypted system for the exchange of information among Member States and the Commission;

(c) the implementation of Article 15(1), which provides for Annex I to be updated in conformity with the relevant obligations and commitments, and any modification thereof, that Member States have accepted as members of the international non-proliferation regimes and export control arrangements, or by ratification of relevant international treaties, including the Australia Group, the Missile Technology Control Regime (MTCR), the Nuclear Suppliers Group (NSG), the Wassenaar Arrangement and the Chemical Weapons Convention (CWC);

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(d) *the implementation of Article 15(2), which provides for Annex IV, as a subset of Annex I, to be updated with regard to Article 36 of the Treaty on the Functioning of the European Union, namely the public policy and public security interests of the Member States.*

A further special section of the report shall provide comprehensive evidence on penalties, including criminal penalties for serious infringements of the provisions of this Regulation, such as intentional exports intended for use in a programme for the development or manufacture of chemical, biological, nuclear weapons or of missiles capable of their delivery without the authorisation required under this Regulation, or the falsification or omission of information with a view to obtaining an authorisation that would otherwise have been denied.

4. The European Parliament or the Council may invite the Commission to an ad hoc meeting of the competent committee of Parliament or of the Council to present and explain any issues related to the application of this Regulation.'

Amendment 14

Proposal for a regulation – amending act

Article 1 – point 2 e (new)

Regulation (EC) No 428/2009

Article 25 a (new)

(2e) *The following article is inserted:*

'Article 25a

International cooperation

Without prejudice to the provisions on mutual administrative assistance agreements or protocols in customs matters concluded between the Union and third countries, the Commission may negotiate with third countries agreements providing for the mutual recognition of export controls of dual-use items covered by this Regulation, in particular to eliminate authorisation requirements for re-exports within the territory of the Union. Those negotiations shall be conducted in accordance with the procedures established by Article 207(3) of the Treaty on the Functioning of the European Union and the relevant provisions of the Treaty establishing the European Atomic Energy Community, as appropriate.

When appropriate and when projects financed by the Union are at stake, the Commission can make proposals, in accordance with the relevant legislative frameworks of the Union or in the arrangements with third countries, so that an ad hoc committee involving all competent authorities of the Member States can be set

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up and be entitled to decide on the granting of the necessary export authorisations to ensure the proper functioning of those projects involving dual-use items or technologies.'

Amendment 15

Proposal for a regulation – amending act

Annex

Regulation (EC) No 428/2009

Annex IIb - Part 3 – paragraph 5

5. For the purposes of this authorisation, 'a low-value shipment' means items which are comprised in a single export **order** and are dispatched by an exporter to a named consignee in one or more consignments the aggregate value of which does not exceed **EUR 5 000**. For this purpose, 'value' means the price billed to the consignee; if there is no consignee or determinable price, it is the statistical value.

5. For the purpose of this authorisation, 'a low-value shipment' means items which are comprised in a single export **contract** and are dispatched by an exporter to a named consignee in one or more consignments the aggregate value of which does not exceed **EUR 3 000**. **If a transaction or act proves to be part of an integral economic operation, the value of the whole operation shall be considered when calculating the value of this authorisation.** For this purpose, 'value' means the price billed to the consignee; if there is no consignee or determinable price, it is the statistical value. **For the calculation of the statistical value, Articles 28 to 36 of Regulation (EEC) No 2913/92 shall apply. If the value cannot be determined, the authorisation shall not be granted.**

Additional costs such as packaging and transport costs may be excluded from the calculation of the value only if:

- (a) they are reported separately on the bill; and**
- (b) they do not contain any additional factors which influence the value of the good.**

Amendment 16

Proposal for a regulation – amending act

Annex

Regulation (EC) No 428/2009

Annex IIb -Part 3 – paragraph 5 a (new)

5a. The amount in euro as laid down in Article 5 shall be reviewed annually starting on 31 October 2012, in order to take account of changes in the Harmonised Indices of Consumer Prices of all Member States as published by the European Commission (Eurostat). That amount shall be adapted automatically, by increasing the base amount in euro by the percentage change in that index over the period between 31 December 2010 and the review date.

The Commission shall inform the European Parliament and the Council annually of the review and the adapted amount referred to in paragraph 1.

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Amendment 17**Proposal for a regulation – amending act****Annex**

Regulation (EC) No 428/2009

Annex IIc- Part 1 – Items

1-1) This is general export authorisation in accordance with **Article 6(1)** and covers the following items:

All dual-use items specified in any entry in Annex I except those listed in paragraph 1-2 below:

- a. where the items were **imported** into the **European Community** territory for the purpose of maintenance **or** repair, and are exported to the country of consignment without any changes to their original characteristics, or
- b. where the items are exported to the country of consignment in exchange for items of the same quality and number which were re-imported into the **European Community territory** for repair or replacement **under warranty**.

1-1) This general export authorisation is in accordance with **Article 9(1)** and covers the following items:

All dual-use items specified in any entry in Annex I except those listed in paragraph 1-2 below:

- a. where the items were **re-imported** into the **customs territory of the Union** for the purpose of maintenance, repair **or replacement**, and are exported **or re-exported** to the country of consignment without any changes to their original characteristics **within a period of five years from the date when the original export authorisation was granted**, or
- b. where the items are exported to the country of consignment in exchange for items of the same quality and number which were re-imported into the **customs territory of the Union** for **maintenance**, repair or replacement **within a period of five years from the date when the original export authorisation was granted**.

Amendment 18**Proposal for a regulation – amending act****Annex**

Regulation (EC) No 428/2009

Annex IIc -Part 2 – Countries of destination

Algeria, Andorra, Antigua and Barbuda, Argentina, Aruba, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, British Virgin Islands, Brunei, Cameroon, Cape Verde, Chile, China, Comoros Islands, Costa Rica, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Falkland Islands, Faroe islands, Fiji, French Guyana, French OT, Gabon, Gambia, Gibraltar, Greenland, Grenada, Guadeloupe, Guam, Guatemala, Ghana, Guinea Bissau, Guyana, Honduras, Hong Kong Special Administrative Region, Iceland, India, Indonesia, Israel, Jordan, Kuwait, Lesotho, Liechtenstein, Macau, Madagascar, Malawi, Malaysia, Maldives, Mali, Martinique, Mauritius, Mexico, Monaco, Montserrat, Morocco, Namibia, Netherlands Antilles, New Caledonia, Nicaragua, Niger, Nigeria, Oman, Panama, Papua New Guinea, Peru, Philippines, Puerto Rico, Qatar, Russia, Samoa, San Marino, Sao Tome e Principe, Saudi Arabia, Senegal, Seychelles, Singapore, Solomon Islands, South Africa, South Korea, Sri Lanka, St. Helena, St. Kitts and Nevis, St. Vincent, Surinam, Swaziland, Taiwan, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Turks and Caicos Islands, United Arab Emirates, Uruguay, US Virgin Islands, Vanuatu, Venezuela.

Albania, Argentina, Bosnia and Herzegovina, Brazil, Chile, China (including Hong Kong and Macao), Croatia, Former Yugoslav Republic of Macedonia, French Overseas Territories, Iceland, India, Israel, Kazakhstan, Mexico, Montenegro, Morocco, Russia, Serbia, Singapore, South Africa, South Korea, Tunisia, Turkey, Ukraine, United Arab Emirates.

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Amendment 19**Proposal for a regulation – amending act****Annex**Regulation (EC) No 428/2009
Annex IIc -Part 3 – paragraph 1

1. This **general** authorisation can only be used when the initial export has taken place under a **Community** General Export Authorisation or an initial export authorisation has been granted by the competent authorities of the Member State where the original exporter was established for the export of the items which have subsequently been re-imported into the **Community Custom** territory for the purposes of repair or replacement **under warranty, as defined below**.

1. This authorisation can only be used when the initial export has taken place under a **Union** General Export Authorisation or an initial export authorisation has been granted by the competent authorities of the Member State where the original exporter was established for the export of the items which have subsequently been re-imported into the **customs territory of the Union** for the purposes of **maintenance**, repair or replacement. **This general authorisation is valid only for exports to the original end-user.**

Amendment 20**Proposal for a regulation – amending act****Annex**Regulation (EC) No 428/2009
Annex IIc -Part 3 – paragraph 2 – point 4

(4) **for an essentially identical transaction where** the initial authorisation has been revoked.

(4) **when** the initial authorisation has been **annulled, suspended, modified, or** revoked.

Amendment 21**Proposal for a regulation – amending act****Annex**Regulation (EC) No 428/2009
Annex IIc -Part 3 – paragraph 2 – point 4 a (new)

(4a) **when the end use of the items in question is different from that specified in the original export authorisation.**

Amendment 22**Proposal for a regulation – amending act****Annex**Regulation (EC) No 428/2009
Annex IIc -Part 3 – paragraph 3 – point 2

(2) provide customs officers, if so requested, with documentary evidence of the date of importation of the goods into the **European Community**, of any repairs to the goods carried out in the **European Community** and of the fact that the items are being returned to the **person** and the country from which they were imported into the **European Community**.

(2) provide customs officers, if so requested, with documentary evidence of the date of importation of the goods into the **Union**, of any repairs to the goods carried out in the **Union** and of the fact that the items are being returned to the **end user** and the country from which they were imported into the **Union**.

Amendment 48**Proposal for a regulation – amending act****Annex**Regulation (EC) No 428/2009
Annex IIc - Part 3 – paragraph 4

4. Any exporter who uses this authorisation must notify the competent authorities of the Member State where he is established (as defined in Article 6(6)) of first use of **the** authorisation no later than 30 days after the date when the first export takes place.

4. Any exporter who uses this authorisation must notify the competent authorities of the Member State where he is established (as defined in Article 6(6)) of **the** first use of **this** authorisation no later than 30 days after the date when the first export takes place **or, alternatively, and in accordance with a requirement by the authority of the Member State where the**

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exporter is established, prior to the first use of this General Export Authorisation. Member States shall notify the Commission of the notification mechanism chosen for this General Export Authorisation. The Commission shall publish the information notified to it in the C series of the Official Journal of the European Union.

Reporting requirements attached to the use of that authorisation and additional information that the Member State from which the export is made may require on items exported under that authorisation are defined by Member States.

A Member State may require the exporter established in that Member State to register prior to the first use of that authorisation. Registration shall be automatic and acknowledged by the competent authorities to the exporter without delay and in any case within 10 working days of receipt of the registration request.

Where applicable the requirements set out in the second and third subparagraphs shall be based on those defined for the use of national general export authorisations granted by those Member States which provide for such authorisations.

Amendment 24

Proposal for a regulation – amending act Annex

Regulation (EC) No 428/2009

Annex IId - Part 2 – Countries of Destination

Argentina, **Bahrain**, **Bolivia**, Brazil, **Brunei**, Chile, China, **Ecuador**, **Egypt**, **Hong Kong Special Administrative Region**, Iceland, **Jordan**, **Kuwait**, **Malaysia**, **Mauritius**, Mexico, Morocco, **Oman**, **Philippines**, **Qatar**, Russia, **Saudi Arabia**, Singapore, South Africa, South Korea, Tunisia, Turkey, Ukraine

Albania, Argentina, **Bosnia and Herzegovina**, Brazil, Chile, China (*including Hong Kong and Macao*), **Croatia**, **Former Yugoslav Republic of Macedonia**, **French Overseas Territories**, Iceland, **India**, **Israel**, **Kazakhstan**, Mexico, **Montenegro**, Morocco, Russia, **Serbia**, Singapore, South Africa, South Korea, Tunisia, Turkey, Ukraine, **United Arab Emirates**

Amendment 26

Proposal for a regulation – amending act Annex

Regulation (EC) No 428/2009

Annex IId -Part 3 – paragraph 1 – point 4 a (new)

(4a) *where their return, in their original state, without the removal, copying or dissemination of any component or software, cannot be guaranteed by the exporter, or where a transfer of technology is connected with a presentation;*

Amendment 27

Proposal for a regulation – amending act Annex

Regulation (EC) No 428/2009

Annex IId -Part 3 – paragraph 1 – point 4 b (new)

(4b) *where the relevant items are to be exported for a private presentation or demonstration (for example, in in-house showrooms);*

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Amendment 28**Proposal for a regulation – amending act****Annex**

Regulation (EC) No 428/2009

Annex IId - Part 3 – paragraph 1 – point 4 c (new)

(4c) where the relevant items are to be merged into a production process;

Amendment 29**Proposal for a regulation – amending act****Annex**

Regulation (EC) No 428/2009

Annex IId - Part 3 – paragraph 1 – point 4 d (new)

(4d) where the relevant items are to be used for their intended purpose, except to the minimum extent required for an effective demonstration and where specific test outputs are not made available to third parties;

Amendment 30**Proposal for a regulation – amending act****Annex**

Regulation (EC) No 428/2009

Annex IId - Part 3 – paragraph 1 – point 4 e (new)

(4e) where the export is to take place as a result of a commercial transaction, in particular as regards the sale, rental or lease of the relevant items;

Amendment 31**Proposal for a regulation – amending act****Annex**

Regulation (EC) No 428/2009

Annex IId - Part 3 – paragraph 1 – point 4 f (new)

(4f) where the relevant items are to be stored at an exhibition or fair only for the purpose of sale, rent or lease, without being presented or demonstrated;

Amendment 32**Proposal for a regulation – amending act****Annex**

Regulation (EC) No 428/2009

Annex IId -Part 3 – paragraph 1 – point 4 g (new)

(4g) where the exporter makes any arrangement which would prevent him from keeping the relevant items under his control during the whole period of the temporary export.

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Amendment 25**Proposal for a regulation – amending act****Annex**

Regulation (EC) No 428/2009

Annex IId -Part 3 – paragraph 1 a (new)

1a. This general authorisation authorises the export of items listed in Part 1 on condition that the export concerns temporary export for exhibitions or fairs and that the items are to be re-imported within a period of 120 days after the initial export, complete and without modification, into the customs territory of the Union.

Amendment 49**Proposal for a regulation – amending act****Annex**

Regulation (EC) No 428/2009

Annex IId - Part 3 – paragraph 3

3. Any exporter who uses this **general** authorisation must notify the competent authorities of the Member State where he is established (as defined in Article 6(6)) of the first use of this authorisation no later than 30 days after the date when the first export takes place.

*3. Any exporter who uses this authorisation must notify the competent authorities of the Member State where he is established (as defined in Article 6(6)) of the first use of this authorisation no later than 30 days after the date when the first export takes place **or, alternatively, and in accordance with a requirement by the authority of the Member State where the exporter is established, prior to the first use of this General Export Authorisation. Member States shall notify the Commission of the notification mechanism chosen for this General Export Authorisation. The Commission shall publish the information notified to it in the C series of the Official Journal of the European Union.***

Reporting requirements attached to the use of that authorisation and additional information that the Member State from which the export is made may require on items exported under that authorisation are defined by Member States.

A Member State may require the exporter established in that Member State to register prior to the first use of that authorisation. Registration shall be automatic and acknowledged by the competent authorities to the exporter without delay and in any case within 10 working days of receipt of the registration request.

Where applicable the requirements set out in the second and third subparagraphs shall be based on those defined for the use of national general export authorisations granted by those Member States which provide for such authorisations.

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Amendment 34**Proposal for a regulation – amending act****Annex**Regulation (EC) No 428/2009
Annex IId -Part 3 – paragraph 4

4. For the purpose of this authorisation, 'exhibition' means *any trade or industrial exhibition, fair or similar public show or display which is not organised for private purposes in shops or business premises with a view to the sale of foreign products, during which the products remain under customs control.*

4. For the purpose of this authorisation, 'exhibition *or fair*' means *commercial events of a specific duration at which several exhibitors make demonstrations of their products to trade visitors or to the general public.*

Amendment 35**Proposal for a regulation – amending act****Annex**

Regulation (EC) No 428/2009 Annex IId

ANNEX IId

*deleted*COMMUNITY GENERAL EXPORT AUTHORISATION No
EU005*Computers and related equipment**Issuing authority: European Community**Part 1**This export authorisation is in accordance with Article 6(1) and covers the following items in Annex I:*

- 1. Digital computers specified in 4A003a or 4A003b, where the computers do not exceed an 'Adjusted Peak Performance' ('APP') greater than 0.8 Weighted TeraFLOPS (WT).*
- 2. Electronic assemblies specified in 4A003c, specially designed or modified to enhance performance by aggregation of processors so that an 'Adjusted Peak Performance' ('APP') of the aggregation greater than 0.8 Weighted TeraFLOPS (WT) is not exceeded.*
- 3. Spare parts, including microprocessors for the above-mentioned equipment, where they are exclusively specified in 4A003a, 4A003b or 4A003c and do not enhance performance of the equipment beyond an 'Adjusted Peak Performance' ('APP') greater than 0.8 Weighted TeraFLOPS (WT).*
- 4. Items described in entries 3A001.a.5, 4A003.e, 4A003.g.*

*Part 2 — Countries of destination**The export authorisation is valid throughout the Community for exports to the following destinations:*

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Algeria, Andorra, Antigua and Barbuda, Argentina, Aruba, Bahamas, Bahrain, Barbados, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, British Virgin Islands, Brunei, Cameroon, Cape Verde, Chile, Comoros Islands, Costa Rica, Croatia, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Falkland Islands, Faroe islands, Fiji, French Guyana, French OT, Gabon, Gambia, Gibraltar, Greenland, Grenada, Guadeloupe, Guam, Guatemala, Ghana, Guinea Bissau, Guyana, Honduras, Hong Kong SAR, Iceland, India, Jordan, Kuwait, Lesotho, Liechtenstein, Madagascar, Malawi, Malaysia, Maldives, Mali, Martinique, Mauritius, Mexico, Moldova, Monaco, Mongolia, Montserrat, Morocco, Namibia, Netherlands Antilles, New Caledonia, Nicaragua, Niger, Oman, Panama, Papua New Guinea, Peru, Philippines, Puerto Rico, Qatar, Russia, Samoa, San Marino, Sao Tome e Principe, Saudi Arabia, Senegal, Seychelles, Singapore, Solomon Islands, South Africa, South Korea, St. Helena, St. Kitts and Nevis, St. Vincent, Surinam, Swaziland, Togo, Trinidad and Tobago, Tunisia, Turkey, Turks and Caicos Islands, UAE, Ukraine, Uruguay, US Virgin Islands, Vanuatu.

Part 3 — Conditions and requirements for use of this authorisation

1. This authorisation does not authorise the export of items:

- (1) *where the exporter has been informed by the competent authorities of the Member State in which he is established that they are or may be intended, in their entirety or in part,*
 - (a) *for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons,*
 - (b) *for a military end-use where the purchasing country or country of destination is subject to an arms embargo imposed by a Common Position or Joint Action adopted by the Council of the European Union or a decision of the OSCE or imposed by a binding resolution of the Security Council of the United Nations, or*
 - (c) *for use as parts or components of military items listed in the national military list that have been exported from the territory of the Member State concerned without authorisation or in breach of an authorisation prescribed by the national legislation of that Member State;*
- (2) *where the exporter is aware that the items in question are intended, in their entirety or in part, for any of the uses referred to in Articles 4(1) and 4(2);*

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(3) *where the relevant items are exported to a customs-free zone or a free warehouse which is located in a destination covered by this authorisation.*

2. *Any exporter who uses this authorisation must:*

- (1) *inform the competent authorities of the Member State where he is established (as defined in Article 6(6)) of first use of the authorisation no later than 30 days after the date of first export;*
- (2) *inform the foreign purchaser, before exportation, that the items he plans to export pursuant to this authorisation cannot be re-exported to an ultimate destination in a country which is not a Member State of the European Community or a French overseas collectivity and is not mentioned in Part 2 of this authorisation.*

Amendment 36

Proposal for a regulation – amending act

Annex

Regulation (EC) No 428/2009

Annex If – Part 1 – paragraphs 3 and 4

3. *Items, including specially designed or developed components and accessories therefor specified in Category 5 Part 2 A to D (Information Security), as follows:* *deleted*

(a) *items specified in the following entries unless their cryptographic functions have been designed or modified for government end-users within the European Community:*

- 5A002a1;
- *software in entry 5D002c1 having the characteristics, or performing or simulating the functions, of equipment in entry 5A002a1;*

(b) *equipment specified in 5B002 for items referred to under a);*

(c) *software as part of equipment whose features or functions are specified under b).*

4. *Technology for the use of goods specified in 3a) to 3c).*

Amendment 37

Proposal for a regulation – amending act

Annex

Regulation (EC) No 428/2009

Annex If - Part 2 – Countries of destination

Argentina, Croatia, Russia, South Africa, South Korea, Turkey, Ukraine

Argentina, **China (including Hong Kong and Macao)**, Croatia, **Iceland, India, Israel**, Russia, South Africa, South Korea, Turkey, Ukraine

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TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Amendment 39**Proposal for a regulation – amending act****Annex**

Regulation (EC) No 428/2009

Annex III - Part 3 – paragraph 1 – point 1 – point c b (new)

- (cb) *for use in connection with a violation of human rights, democratic principles or freedom of speech as defined by the Charter of Fundamental Rights of the European Union, to which Article 6 of the Treaty on European Union refers, by using interception technologies and digital data transfer devices for monitoring mobile phones and text messages and targeted surveillance of internet use (for example through Monitoring Centres and Lawful Interception Gateways);*

Amendment 40**Proposal for a regulation – amending act****Annex**

Regulation (EC) No 428/2009

Annex III - Part 3 – paragraph 1 – point 2

- (2) where the exporter is aware that the items in question are intended, in their entirety or in part, for any of the uses referred to in **Articles 4(1) and 4(2)**.
- (2) where the exporter is aware that the items in question are intended, in their entirety or in part, for any of the uses referred to in **subparagraph 1**.

Amendment 41**Proposal for a regulation – amending act****Annex**

Regulation (EC) No 428/2009

Annex III - Part 3 – paragraph 1 – point 2 a (new)

- (2a) *where the exporter is aware that the items will be re-exported to any country of destination other than those listed in Part 2 of this authorisation, those listed in Part 2 of authorisation EU001 CGEA or the Member States.*

Amendment 50**Proposal for a regulation – amending act****Annex**

Regulation (EC) No 428/2009

Annex III - Part 3 – paragraph 3 – point 1

- (1) **inform** the competent authorities of the Member State where he is established (as defined in Article 6(6)) of first use of **the** authorisation no later than 30 days after the date of first export;
- (1) **notify** the competent authorities of the Member State where he is established (as defined in Article 6(6)) of **the** first use of **this** authorisation no later than 30 days after the date when the first export takes place or, alternatively, and in accordance with a requirement by the authority of the Member State where the exporter is established, prior to the first use of this General Export Authorisation. Member States shall notify the Commission of the notification mechanism chosen for this General Export Authorisation. The Commission shall publish the information notified to it in the C series of the Official Journal of the European Union.

Tuesday 5 April 2011

TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Reporting requirements attached to the use of this authorisation and additional information that the Member State from which the export is made may require on items exported under that authorisation are defined by Member States.

A Member State may require the exporter established in that Member State to register prior to the first use of that authorisation. Registration shall be automatic and acknowledged by the competent authorities to the exporter without delay and in any case within 10 working days of receipt of the registration request.

Where applicable the requirements set out in the second and third subparagraphs shall be based on those defined for the use of national general export authorisations granted by those Member States which provide for such authorisations.

Amendment 43

Proposal for a regulation – amending act

Annex

Regulation (EC) No 428/2009

Annex IIg – Part 2 – Countries of destination

Argentina; **Bangladesh, Belize, Benin, Bolivia, Brazil; Cameroun, Chile; Cook Island, Costa Rica; Dominica, Ecuador, El Salvador, Fiji, Georgia, Guatemala, Guyana, India, Lesotho, Maldives, Mauritius, Mexico, Namibia, Nicaragua, Oman, Panama, Paraguay, Russia, St Lucia, Seychelles, Peru, Sri Lanka, South Africa; Swaziland, Turkey; Uruguay, Ukraine; Republic of Korea.**

Argentina
Croatia
Iceland
South Korea
Turkey
Ukraine.

Amendment 44

Proposal for a regulation – amending act

Annex

Regulation (EC) No 428/2009

Annex IIg – Part 3 – paragraph 1 – point 2

(2) where ***the exporter is aware that*** the items in question are intended, in their entirety or in part, for any of the uses referred to in Articles 4(1) and 4(2).

(2) where the items in question are intended, in their entirety or in part, for any of the uses referred to in Articles 4(1) and 4(2);

Amendment 45

Proposal for a regulation – amending act

Annex

Regulation (EC) No 428/2009

Annex IIg - Part 3 – paragraph 1 – point 2 a (new)

(2a) ***where the exporter is aware that the items will be re-exported to any country of destination other than those listed in Part 2 of this authorisation, those listed in Part 2 of authorisation EU001 CGEA or to the Member States.***

Tuesday 5 April 2011

TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Amendment 51**Proposal for a regulation – amending act****Annex**

Regulation (EC) No 428/2009

Annex IIg - Part 3 – paragraph 4 – point 1

(1) **inform** the competent authorities of the Member State where he is established (as defined in Article 6(6)) of first use of **the** authorisation no later than 30 days after the date **of first export**;

(1) **notify** the competent authorities of the Member State where he is established (as defined in Article 6(6)) of **the** first use of **this** authorisation no later than 30 days after the date **when the first export takes place or, alternatively, and in accordance with a requirement by the authority of the Member State where the exporter is established, prior to the first use of this General Export Authorisation. Member States shall notify the Commission of the notification mechanism chosen for this General Export Authorisation. The Commission shall publish the information notified to it in the C series of the Official Journal of the European Union.**

Reporting requirements attached to the use of this authorisation and additional information that the Member State from which the export is made may require on items exported under that authorisation are defined by Member States.

A Member State may require the exporter established in that Member State to register prior to the first use of that authorisation. Registration shall be automatic and acknowledged by the competent authorities to the exporter without delay and in any case within 10 working days of receipt of the registration request.

Where applicable the requirements set out in the second and third subparagraphs shall be based on those defined for the use of national general export authorisations granted by those Member States which provide for such authorisations.