



11/05/2017

**AMENDMENTS: 37**

**Klaus Buchner**

Setting up a Union regime for the control of exports, transfer, brokering, technical assistance and transit of dual-use items (recast)

**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

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**Amendments per language:**

*EN: 37*

# EUROPEAN PARLIAMENT

Committee on International Trade

11/05/2017

## **Klaus Buchner**

Setting up a Union regime for the control of exports, transfer, brokering, technical assistance and transit of dual-use items (recast)

**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 1**

**Christofer Fjellner, Artis Pabriks, Bendt Bendtsen**

## **Proposal for a regulation**

### **Recital 6**

*Text proposed by the Commission*

*Amendment*

(6) *As a result, it is also appropriate to revise the definition of dual-use items, and to introduce a definition of cyber-surveillance technology. It should also be clarified that assessment criteria for the control of exports of dual-use items include considerations regarding their possible misuse in connection with acts of terrorism or human rights violations.* *deleted*

Or. en

*Justification*

*In keeping with international standards, there is no need in an expanded definition of dual-use items.*

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 2**

**Christofer Fjellner, Daniel Caspary, Artis Pabriks, Bendt Bendtsen, Godelieve Quisthoudt-Rowohl**

## **Proposal for a regulation**

### **Recital 9**

*Text proposed by the Commission*

(9) The scope of "catch-all controls", that apply to non-listed dual use items in specific circumstances, should be clarified and harmonised, ***and should address the risk of terrorism and human rights violations***. Appropriate exchange of information and consultations on "catch all controls" should ensure the effective and consistent application of controls throughout the Union. ***Targeted catch-all controls should also apply, under certain conditions, to the export of cyber-surveillance technology.***

*Amendment*

(9) The scope of "catch-all controls", that apply to non-listed dual use items in specific circumstances, should be clarified and harmonised. Appropriate exchange of information and consultations on "catch all controls" should ensure the effective and consistent application of controls throughout the Union.

Or. en

*Justification*

*In order to provide legal clarity and foreseeability for producers, there is no need for a new catch-all provision.*



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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 3**

**Christofer Fjellner, Artis Pabriks, Bendt Bendtsen, Godelieve Quisthoudt-Rowohl**

## **Proposal for a regulation**

### **Recital 17**

*Text proposed by the Commission*

(17) Decisions to update the common list of dual-use items subject to export controls in Section A of Annex I should be in conformity with the obligations and commitments that Member States and the Union have accepted as members of the relevant international non-proliferation regimes and export control arrangements, or by ratification of relevant international treaties. Decisions to update the common *list of dual-use items subject to export controls in Section B of Annex I, such as cyber-surveillance technology, should be made in consideration of the risks that the export of such items may pose as regards the commission of serious violations of human rights or international humanitarian law or the essential security interests of the Union and its Member States. Decisions to update the common list of dual-use items subject to export*

*Amendment*

(17) Decisions to update the common list of dual-use items subject to export controls in Section A of Annex I should be in conformity with the obligations and commitments that Member States and the Union have accepted as members of the relevant international non-proliferation regimes and export control arrangements, or by ratification of relevant international treaties. Decisions to update the common lists of items and destinations set out in Sections A to J of Annex II should be made in consideration of the assessment criteria set out in this Regulation.

*controls in Section B of Annex IV should be made in consideration of the public policy and public security interests of the Member States under Article 36 of the Treaty on the Functioning of the European Union. Decisions to update the common lists of items and destinations set out in Sections A to J of Annex II should be made in consideration of the assessment criteria set out in this Regulation.*

Or. en

*Justification*

*In order to work for a global level playing field, there is no need for an EU-autonomous control of items.*

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 4**

**Christofer Fjellner, Artis Pabriks, Bendt Bendtsen**

## **Proposal for a regulation**

**Article 2 – paragraph 1 – point 1 – point b**

*Text proposed by the Commission*

*Amendment*

<i>(b) cyber-surveillance technology which can be used for the commission of serious violations of human rights or international humanitarian law, or can pose a threat to international security or the essential security interests of the Union and its Member States.</i>	<i>deleted</i>
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Or. en

*Justification*

*In keeping with international standards, there is no need in an expanded definition of dual-use items.*



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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 5**

**Christofer Fjellner, Daniel Caspary, Franck Proust, Artis Pabriks, Bendt Bendtsen, Godelieve Quisthoudt-Rowohl**

## **Proposal for a regulation**

### **Article 2 – paragraph 7**

*Text proposed by the Commission*

7. ‘broker’ shall mean any natural or legal person or partnership resident or established in a Member State of the Union, ***or a legal person or partnership owned or controlled by such person, or another person*** that carries out brokering services from the Union into the territory of a third country;

*Amendment*

7. ‘broker’ shall mean any natural or legal person or partnership resident or established in a Member State of the Union that carries out brokering services from the Union into the territory of a third country;

Or. en

*Justification*

*In accordance with previous policy where other countries control export control within the Union, there should be no EU extra-territorial control of dual-use items.*

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Setting up a Union regime for the control of exports, transfer, brokering, technical assistance and transit of dual-use items (recast)

**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 6**

**Christofer Fjellner, Daniel Caspary, Franck Proust, Artis Pabriks, Bendt Bendtsen, Godelieve Quisthoudt-Rowohl**

## **Proposal for a regulation**

### **Article 2 – paragraph 9**

*Text proposed by the Commission*

9. ‘supplier of technical assistance’ means any natural or legal person or partnership resident or established in a Member State of the Union, or ***a legal person or partnership owned or controlled by such person, or*** another person which supplies technical assistance from the Union into the territory of a third country;

*Amendment*

9. ‘supplier of technical assistance’ means any natural or legal person or partnership resident or established in a Member State of the Union, or another person which supplies technical assistance from the Union into the territory of a third country;

Or. en

*Justification*

*In accordance with previous policy where other countries control export control within the Union, there should be no EU extra-territorial control of dual-use items.*

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 7**

**Christofer Fjellner, Artis Pabriks, Bendt Bendtsen**

### **Proposal for a regulation Article 2 – paragraph 13**

#### *Text proposed by the Commission*

13. 'large project authorisation' shall mean a global export authorisation granted to one specific exporter, in respect of a type or category of dual-use item which may be valid for exports to one or more specified end users in one or more specified third countries for the duration of a specified project the realisation of which exceeds **one year**;

#### *Amendment*

13. Large project authorisation' shall mean a global export authorisation granted to one specific exporter, in respect of a type or category of dual-use item which may be valid for exports to one or more specified end users in one or more specified third countries for the duration of a specified project the realisation of which exceeds **three years**;

Or. en

#### *Justification*

*To allow for further planning for exporters, the general authorisation period should be extended to three years.*

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 8**

**Christofer Fjellner, Franck Proust, Artis Pabriks, Bendt Bendtsen**

## **Proposal for a regulation**

**Article 2 – paragraph 21 – introductory part**

*Text proposed by the Commission*

21. 'cyber-surveillance technology' shall mean items specially designed to enable the covert intrusion into information and telecommunication systems with a view to monitoring, *extracting*, collecting and analysing data and/or incapacitating or damaging the targeted system. *This includes items related to the following technology and equipment:*

*Amendment*

21. 'cyber-surveillance technology' shall mean items specially designed to enable the covert intrusion into information and telecommunication systems with a view to monitoring, *exfiltrating*, collecting and analysing data and/or incapacitating or damaging the targeted system. *Products shall be specifically defined and listed in a dedicated category of Annex 1 according to the international export control regimes including Wassenaar.*

Or. en

*Justification*

*In order to create a global level-playing field, cyber-surveillance technology shall be defined according to international conventions.*

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

**Amendment 9**

**Christofer Fjellner, Franck Proust, Artis Pabriks, Bendt Bendtsen**

**Proposal for a regulation**

**Article 2 – paragraph 21 – point a**

*Text proposed by the Commission*

*Amendment*

*(a) mobile telecommunication  
interception equipment;*

*deleted*

Or. en

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

**Amendment 10**

**Christofer Fjellner, Franck Proust, Artis Pabriks, Bendt Bendtsen**

**Proposal for a regulation**

**Article 2 – paragraph 21 – point b**

*Text proposed by the Commission*

*Amendment*

(b) *intrusion software;*

*deleted*

Or. en

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

**Amendment 11**

**Christofer Fjellner, Franck Proust, Artis Pabriks, Bendt Bendtsen**

**Proposal for a regulation**

**Article 2 – paragraph 21 – point c**

*Text proposed by the Commission*

*Amendment*

(c) *monitoring centers;*

*deleted*

Or. en

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 12**

**Christofer Fjellner, Franck Proust, Artis Pabriks, Bendt Bendtsen**

## **Proposal for a regulation**

**Article 2 – paragraph 21 – point d**

*Text proposed by the Commission*

*Amendment*

*(d) lawful interception systems and data retention systems;*

*deleted*

Or. en



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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 13**

**Christofer Fjellner, Franck Proust, Artis Pabriks, Bendt Bendtsen**

## **Proposal for a regulation**

**Article 2 – paragraph 21 – point e**

*Text proposed by the Commission*

*Amendment*

(e) *digital forensics;*

*deleted*

Or. en

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 14**

**Christofer Fjellner, Franck Proust, Artis Pabriks, Bendt Bendtsen**

## **Proposal for a regulation**

**Article 2 – paragraph 21 – subparagraph 1 (new)**

*Text proposed by the Commission*

*Amendment*

*However, Cyber surveillance Technology shall not mean items specially designed for any of the following:*

- a) Billing*
- b) Data collection functions within network elements (e.G. Exchange or HLR)*
- c) Marketing purposes*
- d) Quality of service of the network (QoS)*
- e) User satisfaction (Quality of Experience - QoE)*
- f) Operations at telecommunications companies*
- g) Network Protection" (e.g. firewalls)*

Or. en

*Justification*

*It is necessary to clarify legitimate cyber-technology that shall be exempt from controls.*

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 15**

**Christofer Fjellner, Daniel Caspary, Franck Proust, Artis Pabriks, Bendt Bendtsen**

## **Proposal for a regulation**

**Article 4 – paragraph 1 – introductory part**

### *Text proposed by the Commission*

1. An authorisation shall be required for the export of dual-use items not listed in Annex I if the exporter has been informed by the competent authority that the items in question are or may be intended, in their entirety or in part:

### *Amendment*

1. An authorisation shall be required for the export of dual-use items not listed in Annex I if the exporter has been informed by the competent authority ***of the Member State in which he is established*** that the items in question are or may be intended, in their entirety or in part:

Or. en

### *Justification*

*It is necessary to clarify the competent authority.*

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 16**

**Christofer Fjellner, Daniel Caspary, Franck Proust, Artis Pabriks, Bendt Bendtsen, Godelieve Quisthoudt-Rowohl**

## **Proposal for a regulation**

**Article 4 – paragraph 1 – point d**

*Text proposed by the Commission*

*Amendment*

*(d) for use by persons complicit in or responsible for directing or committing serious violations of human rights or international humanitarian law in situations of armed conflict or internal repression in the country of final destination, as identified by relevant public international institutions, or European or national competent authorities, and where there is evidence of the use of this or similar items for directing or implementing such serious violations by the proposed end-user;*

*deleted*

Or. en

*Justification*

*In order to provide legal clarity and foreseeability for producers, there is no need for a new catch-all provision.*



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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

**Amendment 17**

**Christofer Fjellner, Daniel Caspary, Franck Proust, Artis Pabriks, Bendt Bendtsen, Godelieve Quisthoudt-Rowohl**

**Proposal for a regulation**

**Article 4 – paragraph 1 – point e**

*Text proposed by the Commission*

*Amendment*

*(e) for use in connection with acts of terrorism.*                      *deleted*

Or. en

*Justification*

*In order to provide legal clarity and foreseeability for producers, there is no need for a new catch-all provision.*

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 18**

**Christofer Fjellner, Artis Pabriks, Bendt Bendtsen, Godelieve Quisthoudt-Rowohl**

### **Proposal for a regulation**

#### **Article 4 – paragraph new2**

*Text proposed by the Commission*

new2. If an exporter, ***under his obligation to exercise due diligence, is aware*** that dual-use items which he proposes to export, not listed in Annex I, are intended, in their entirety or in part, for any of the uses referred to in paragraph 1, he must notify the competent authority, which will decide whether or not it is expedient to make the export concerned subject to authorisation.

*Amendment*

new2. If an exporter ***has sufficient and substantiated evidence*** that dual-use items which he proposes to export, not listed in Annex I, are intended, in their entirety or in part, for any of the uses referred to in paragraph 1, he must notify the competent authority ***of the Member State in which he is established***, which will decide whether or not it is expedient to make the export concerned subject to authorisation.

Or. en

*Justification*

*It is an undue burden on exporting companies to introduce an unclear requirement of due diligence for exports.*



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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 19**

**Christofer Fjellner, Franck Proust, Artis Pabriks, Bendt Bendtsen**

### **Proposal for a regulation** **Article 4 – paragraph 3**

#### *Text proposed by the Commission*

3. Authorisations for the export of non-listed items shall be granted for specific items and end-users. The authorisations shall be granted by the competent authority of the Member State where the exporter is resident or established or, in case when the exporter is a person resident or established outside the Union, by the competent authority of the Member State where the items are located. The authorisations shall be valid throughout the Union. The authorisations shall be valid for **one year**, and may be renewed by the competent authority.

#### *Amendment*

3. Authorisations for the export of non-listed items shall be granted for specific items and end-users. The authorisations shall be granted by the competent authority of the Member State where the exporter is resident or established or, in case when the exporter is a person resident or established outside the Union, by the competent authority of the Member State where the items are located. The authorisations shall be valid throughout the Union. The authorisations shall be valid for **three years**, and may be renewed by the competent authority. ***The competent authority may however issue an authorisation for a shorter period under extraordinary circumstances and for compelling reasons if it is necessary when assessing the criteria in Article 14.***

Or. en

*Justification*

*It is necessary to provide for legal clarity for lawful exports and a period of three years in line with global standards. If risks are too high, it might however be necessary to provide for shorter licenses under extraordinary circumstances.*

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Setting up a Union regime for the control of exports, transfer, brokering, technical assistance and transit of dual-use items (recast)

**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 20**

**Christofer Fjellner, Franck Proust, Artis Pabriks, Bendt Bendtsen**

### **Proposal for a regulation**

**Article 4 – paragraph new4 – subparagraph 1**

#### *Text proposed by the Commission*

A Member State which imposes an authorisation requirement, in application of paragraphs 1 , 2 and 3 on the export of a dual-use item not listed in Annex I, shall immediately inform the other Member States and the *Commission* and provide them with the relevant information, in particular concerning the items and end-users concerned . The other Member States shall give all due consideration to this information and shall make known within 10 working days any objections they may have to the imposition of such an authorisation requirement. In exceptional cases, any Member State consulted may request an extension of the 10-day period. However, the extension may not exceed **30** working days.

#### *Amendment*

A Member State which imposes an authorisation requirement, in application of paragraphs 1 , 2 and 3 on the export of a dual-use item not listed in Annex I, shall, ***unless it would prejudice its national security interests***, immediately inform the other Member States, ***the Commission***, and the ***exporter*** and provide them with the relevant information, in particular concerning the items and end-users concerned. The other Member States shall give all due consideration to this information and shall make known within 10 working days any objections they may have to the imposition of such an authorisation requirement. In exceptional cases, any Member State consulted may request an extension of the 10-day period. However, the extension may not exceed **20** working days.

*Justification*

*It is appropriate that member states be exempt from this procedure, should it pose a threat for its national security interests. It is furthermore appropriate the exporter is given this information and that the total procedure not to take more than 30 working days.*

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 21**

**Christofer Fjellner, Daniel Caspary, Artis Pabriks, Bendt Bendtsen, Godelieve Quisthoudt-Rowohl**

## **Proposal for a regulation**

**Article 4 – paragraph new4 – subparagraph 2**

### *Text proposed by the Commission*

If no objections are received, the Member States consulted shall be considered to have no objection and shall impose authorisations requirements for all "essentially similar transactions". They shall inform their customs administration and other relevant national authorities about the authorisations requirements .

### *Amendment*

If no objections are received, the Member States consulted shall be considered to have no objection and shall impose authorisations requirements for all "essentially similar transactions" ***meaning an item with essentially identical parameters or technical characteristics to the same end use or consignee***. They shall inform their customs administration and other relevant national authorities about the authorisations requirements . ***The Commission shall publish a short description of the case, the reasoning of the decision and indicate, if applicable, the new authorisation requirement in (a new Section E) of the Official Journal***

Or. en

*Justification*

*It is appropriate to clarify essentially similar transactions and that such decisions become publically available.*

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 22**

**Christofer Fjellner, Artis Pabriks, Bendt Bendtsen, Godelieve Quisthoudt-Rowohl**

### **Proposal for a regulation** **Article 5 – paragraph 2**

*Text proposed by the Commission*

2. If a broker is **aware** that the dual-use items for which he proposes brokering services are intended, in their entirety or in part, for any of the uses referred to in Article 4(1), he must notify the competent authority which will decide whether or not it is expedient to make such brokering services subject to authorisation.

*Amendment*

2. If a broker is **has sufficient and substantiated evidence** that the dual-use items **listed in Annex I** for which he proposes brokering services are intended, in their entirety or in part, for any of the uses referred to in Article 4(1), he must notify the competent authority **of the Member State in which he is established** which will decide whether or not it is expedient to make such brokering services subject to authorisation.

Or. en

*Justification*

*In order to achieve legal clarity, it is necessary to clarify that only listed items be subject to brokering controls. It is necessary to clarify the relevant authority.*

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 23**

**Christofer Fjellner, Artis Pabriks, Bendt Bendtsen**

### **Proposal for a regulation** **Article 6 – paragraph 1**

#### *Text proposed by the Commission*

1. The transit of non-Union dual-use items may be prohibited at any time by the competent authority of the Member State where the items are situated if the items are or may be intended, in their entirety or in part, for uses referred to in Article 4(1).

#### *Amendment*

1. The transit of non-Union dual-use items ***listed in Annex I*** may be prohibited at any time by the competent authority of the Member State where the items are situated if the items are or may be intended, in their entirety or in part, for uses referred to in Article 4(1).

Or. en

#### *Justification*

*In order to achieve legal clarity, it is necessary to clarify that only listed items be subject to transit controls.*



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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 24**

**Christofer Fjellner, Daniel Caspary, Artis Pabriks, Bendt Bendtsen, Godelieve Quisthoudt-Rowohl**

## **Proposal for a regulation**

**Article 7 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

If a supplier of technical assistance is aware that the dual-use items for which he proposes to supply technical assistance are intended, in their entirety or in part, for any of the uses referred to in Article 4, he must notify the competent authority which will decide whether or not it is expedient to make such technical assistance subject to authorisation.

*Amendment*

If a supplier of technical assistance is aware that the dual-use items for which he proposes to supply technical assistance ***outside the territory of the Union*** are intended, in their entirety or in part, for any of the uses referred to in Article 4 he must notify the competent authority ***in the Member State in which he is established*** which will decide whether or not it is expedient to make such technical assistance subject to authorisation.

Or. en

*Justification*

*It is necessary to clarify the relevant authority. It is appropriate that this technical assistance limit itself for technical assistance outside the Union.*

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## **Klaus Buchner**

Setting up a Union regime for the control of exports, transfer, brokering, technical assistance and transit of dual-use items (recast)

**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 25**

**Christofer Fjellner, Daniel Caspary, Artis Pabriks, Bendt Bendtsen**

## **Proposal for a regulation**

**Article 7 – paragraph 2 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Paragraphs 1 and 2 shall not apply if the technical assistance***

***a) is provided in a country listed in Annex IIa to this Regulation,***

***b) takes place via the passing on of information which is generally available or forms part of basic research within the meaning of the General Technology Note to Annex I or Annex Ia of this Regulation,***

***c) does not refer to a technology which is cited in the numbers of category E of Annex I to this Regulation, or***

***d) represents the absolutely necessary minimum for the construction, operation, maintenance and repair of those dual-use items for which an export authorization was issued.***

Or. en

*Justification*

*In order to simplify for providers of technical assistance, the new provisions should not apply to assistance of low risk. This amendment is intrinsically linked to the entire new article.*

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 26**

**Christofer Fjellner, Artis Pabriks, Bendt Bendtsen**

### **Proposal for a regulation** **Article 8 – paragraph 1**

#### *Text proposed by the Commission*

1. A Member State may prohibit or impose an authorisation requirement on the export of dual-use items not listed in Annex I for reasons of public security *or* for human rights considerations.

#### *Amendment*

1. A Member State may prohibit or impose an authorisation requirement on the export of dual-use items not listed in Annex I for reasons of public security, for human rights considerations *or for the prevention of acts of terrorism.*

Or. en

#### *Justification*

*As there is no need for an extended catch-all clause to control for exports to counter acts of terrorism, there should be a possibility for member states to control such items. This amendment is intrinsically linked to amendment 17 on Article 4.1 e)*

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 27**

**Christofer Fjellner, Artis Pabriks, Bendt Bendtsen**

### **Proposal for a regulation Article 10 – paragraph 3**

*Text proposed by the Commission*

3. Individual export authorisations and global export authorisations shall be valid for **one year**, and may be renewed by the competent authority. Global export authorisations for large projects shall be valid for a duration to be determined by the competent authority.

*Amendment*

3. Individual export authorisations and global export authorisations shall be valid for **three years**, and may be renewed by the competent authority. Global export authorisations for large projects shall be valid for a duration to be determined by the competent authority **based, inter alia, on the duration of the export contract. The competent authority may however issue an authorisation for a shorter period under extraordinary circumstances and for compelling reasons if it is necessary when assessing the criteria in Article 14.**

Or. en

*Justification*

*It is necessary to provide for legal clarity for lawful exports and a period of three years in line with global standards. If risks are too high, it might however be necessary to provide for shorter licenses under extraordinary circumstances.*



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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

**Amendment 28**

**Christofer Fjellner, Franck Proust, Artis Pabriks, Bendt Bendtsen, Godelieve Quisthoudt-Rowohl**

**Proposal for a regulation**

**Article 10 – paragraph 4 – subparagraph 2**

*Text proposed by the Commission*

Authorisations may be subject, if appropriate, to an end-use statement.

*Amendment*

Authorisations may be subject, if appropriate **and possible**, to an end-use statement.

Or. en

*Justification*

*In certain cases, finding an end-use statement may not be feasible. In such situations, other forms of certification should be considered by the competent authorities.*

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 29**

**Christofer Fjellner, Daniel Caspary, Franck Proust, Artis Pabriks, Bendt Bendtsen, Godelieve Quisthoudt-Rowohl**

## **Proposal for a regulation**

**Article 11 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*Where the broker or the supplier of technical assistance is not resident or established on the territory of the Union, authorisations for brokering services and technical assistance under this Regulation shall be granted, alternatively, by the competent authority of the Member State where the parent company of the broker or supplier of technical assistance is established, or from where the brokering services or technical assistance will be supplied.*

*deleted*

Or. en

*Justification*

*In accordance with previous policy where other countries control export control within the Union, there should be no EU extra-territorial control of dual-use items.*



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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 30**

**Christofer Fjellner, Daniel Caspary, Artis Pabriks, Bendt Bendtsen**

## **Proposal for a regulation**

**Article 14 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) *respect for* human rights in the country of final destination as *well as respect by that country of international humanitarian law*;

*Amendment*

(b) *the occurrence of* human rights *law and international humanitarian law violations* in the country of final destination as *has been established by the competent bodies of the UN, the Council of Europe and the Union*;

Or. en

*Justification*

*It is necessary to clarify the relevant sources for the human rights criteria in assessing whether to grant an authorisation or not.*

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 31**

**Christofer Fjellner, Artis Pabriks, Bendt Bendtsen**

## **Proposal for a regulation**

**Article 16 – paragraph 2 – point b**

*Text proposed by the Commission*

*Amendment*

**(b) *The list of dual-use items set out in Section B of Annex I may be amended if this is necessary due to risks that the export of such items may pose as regards the commission of serious violations of human rights or international humanitarian law or the essential security interests of the Union and its Member States.*** ***deleted***

Or. en

*Justification*

*In order to work for a global level playing field, there is no need for an EU-autonomous control of items.*

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

**Amendment 32**

**Christofer Fjellner, Artis Pabriks, Bendt Bendtsen**

**Proposal for a regulation**  
**Article 23 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

*It shall be prohibited to participate,  
knowingly and intentionally, in activities  
the object or effect of which is to  
circumvent the measures referred to in  
Article 3, 4, 5, 6, and 7.*

*deleted*

Or. en

*Justification*

*While circumvention is and should remain illegal, it is doubtful what would be the added direct legal effect of an explicit anti-circumvention provision.*

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 33**

**Christofer Fjellner, Artis Pabriks, Bendt Bendtsen, Godelieve Quisthoudt-Rowohl**

**Proposal for a regulation**  
**Annex I – part B**

*Text proposed by the Commission*

*Amendment*

**B. LIST OF OTHER DUAL-USE ITEMS** *deleted*

**GENERAL TECHNOLOGY NOTE**  
**(GTN)**

***10A001 Surveillance systems, equipment and components for ICT (Information and Communication Technology) for public networks where the destination lies outside the customs territory of the European Union and outside of Part 2 of Section A of Annex II to this Regulation, as follows:***

***a. Monitoring Centres (Law Enforcement Monitoring Facilities) for Lawful Interception Systems (LI, for example according to ETSI ES 201 158, ETSI ES 201 671 or equivalent specifications or standards) and specially designed components therefor,***

***b. Retention systems or devices for event data (Intercept Related Information IRI, for example, according to ETSI TS 102 656 or equivalent specifications or standards) and specially designed components therefor.'***

***Technical note:***

***Event data includes signalling information, origin and destination (e.g. phone numbers, IP or MAC addresses, etc.), date and time and geographical origin of Communication.***

***Note: 10A001 does not control systems, or devices that are specially designed for any of the following purposes:***

- a) billing***
- b) data collection functions within network elements (e.g., Exchange or HLR)***
- c) quality of service of the network (Quality of Service - QoS) or***
- d) User satisfaction (Quality of Experience - QoE)***
- e) operation at telecommunications companies (service providers)'.***

***10D001 "Software" as follows:***

- a. "Software" specially designed or modified for the "development", "production" or "use" of equipment, functions or features, specified by 10A001;***
- b. "Software" specially designed or modified to provide characteristics, functions or features of equipment, specified by 10A001.***

***10E001 "Technology" according to the General Technology Note for the "development", "production" or "use" of equipment, functions or features specified by 10A001 or "software" specified by 10D001.***

*Justification*

*In order to work for a global level playing field, there is no need for an EU-autonomous control of items.*

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## **Klaus Buchner**

Setting up a Union regime for the control of exports, transfer, brokering, technical assistance and transit of dual-use items (recast)

**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 34**

**Christofer Fjellner, Daniel Caspary, Artis Pabriks, Bendt Bendtsen**

## **Proposal for a regulation**

**Annex II – part H – subpart 3 – point 1 – point 1**

*Text proposed by the Commission*

(1) by *the exporter or by any entity* owned or controlled by the *exporter*;

*Amendment*

(1) by *any company resident or established in a Member State of the Union to any sister company, subsidiary or parent company provided these entities are owned or controlled by the same parent company or by each other and provided the item is for use for company cooperation projects including commercial product development, research, servicing, production and usage and, in the case of employees and order processors, pursuant to the agreement establishing the employment relationship.*

Or. en

*Justification*

*It is necessary to extend the authorisation not only to subsidiaries but also to parent and sister companies. Furthermore, it is appropriate to extend the authorisation to the full range of legitimate commercial activities in the Union. This amendment is intrinsically linked to Amendment 57.*





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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 35**

**Christofer Fjellner**

## **Proposal for a regulation**

**Annex II – part H – subpart 3 – point 1 – point 2 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

*by employees of the exporter or of any  
entity owned or controlled by the exporter*

*deleted*

Or. en

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 36**

**Christofer Fjellner**

## **Proposal for a regulation**

**Annex II – part H – subpart 3 – point 1 – point 2 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

*in its or their own commercial product development activities and, in the case of employees, pursuant to the agreement establishing the employment relationship.*

*deleted*

Or. en

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**Proposal for a regulation** COM(2016)0616 - C8-0393/2016 – 2016/0295(COD)

## **Amendment 37**

**Christofer Fjellner, Bendt Bendtsen, Artis Pabriks**

## **Proposal for a regulation**

**Annex II – part I – subpart 3 – point 1 – point 4**

*Text proposed by the Commission*

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

*Amendment*

(4) the relevant items are exported to a customs-free zone or a free warehouse which is located in a destination covered by this authorisation ***when the warehouse is not under the control of the EU exporter.***

Or. en

*Justification*

*The risk should be mitigated considering that the warehouse will still be in a country covered by the authorisation.*