



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**

(presented by the Commission)

EXPLANATORY MEMORANDUM

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

The decisions to control dual-use items are taken by consensus in international export control regimes and the EC is bound to apply them under Article 11 of Regulation (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 27 February 2006 of the last amendment of the Regulation, the Wassenaar Arrangement (WA), the Missile Technology Control Regime (MTCR), the Australia Group (AG) and the Nuclear Supplier Group (NSG) have agreed on specific changes to their respective control lists. 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:

| Definitions | Regime | Nature of change |
|-----------------------------------|---------------|-------------------------|
| Adjusted Peak Performance | Edit/WA | New definition. |
| Angle random walk | WA | New definition. |
| APP | Edit/WA | New definition. |
| Average output power | WA | New definition. |
| Compensation systems | WA | New definition. |
| Composite theoretical performance | WA | Deleted definition. |
| CTP | WA | Deleted definition. |
| CW laser | WA | New definition. |
| Drift rate | WA | Amended definition. |
| Laser duration | WA | New definition. |
| Microorganisms | Edit | Amended definition. |

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| Peak power | WA | Amended definition. |
| Pulsed laser | WA | New definition. |
| Repeatability | WA | New definition. |
| Required | Edit | Amended definition. |

CATEGORIES 0 to 9 in Annex I

| Category 0 | Regime | Nature of change |
|-------------|--------|---------------------------------|
| 0B001.b.14. | NSG | New control for Bellows valves. |

| Category 1 | Regime | Nature of change |
|----------------------------------|--------|---|
| 1A002.a., b. & <i>Note</i> | WA | Text amended in sub-paragraphs and Note. |
| 1B001.f., 1. & 2. | WA | Sub-entry amended with 2 new sub-paragraphs. |
| 1C005.a. & a.1. | WA | Sub-entry amended. |
| 1C005.b.1. & 2. | WA | Sub-para 1. amended; Current sub-paragraph 2. removed; Current sub-para 3. amended and renamed 2. |
| 1C005.c. | WA | Additional control on superconductive composite conductors. |
| 1C005 <i>Tech Note</i> | WA | New tech note added. |
| 1C008.a. <i>Note 1. & 2.</i> | WA | New Note 1 added; current Note renamed 2. |
| 1C008.b. | WA | Sub-entry text amended. |
| 1C008.c. | WA | Control removed for polyarylene ether ketones. |
| 1C010 N.B. | Edit | Nota Bene amended. |
| 1C010.b. <i>Note</i> | WA | Note amended. |
| 1C010.e. <i>Note a.</i> | WA | Note amended. |
| 1C107.b., c. & d. | MTCR | Text to sub-entries amended. |
| 1C107.e. | MTCR | New control for reinforced silicon-carbide composite material. |
| 1C111.a.3. | MTCR | Sub-entry text amended. |
| 1C111.a.4., a. to q. | MTCR | Hydrazine sub-entry amended to list 15 derivatives. |
| 1C111.b.5. & <i>Tech Note</i> | MTCR | New sub-entry for polytetrahydrofuran polyethylene glycol (TPEG) with Tech Note. |

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| 1C111.c.3., 4., 6.c., 6.e., 6.f., 6.j. & 6.k. | MTCR | Sub-entry text amended to include CAS numbers. |
| 1C117 | MTCR | Entry text amended. |
| 1C351.d.9. | AG | Sub-entry text amended. |
| 1C351.e., 1 & 2. | AG | New sub-entry for fungi. |
| 1C353.a. & <i>Tech Note 2.</i> | AG | Sub-entry text and Note amended. |
| 1C450.a. <i>Tech Note 4.</i> | Edit | Tech Note moved to be under each sub-entry. |
| 1C450.b. <i>Tech Note 4.</i> | Edit | Tech Note moved to be under each sub-entry. |
| 1C450.b.2. & <i>N.B.</i> | Edit | Sub-entry amended and Nota Bene added to avoid duplication of control with 1C350. |
| 1D003 | WA | New control entry NBC detection software. |
| 1E002.g. & <i>Tech Note</i> | WA | New control entry and Tech Note for libraries for NBC detection. |
| Category 2 | | |
| 2B001.a. <i>Note</i> | WA | Note amended to have 2 sub-paragraphs. |
| 2B002 | WA | Entry amended to expand the type of finishing machines specified and include 2 new sub-paragraphs. |
| 2B002 <i>Tech Note</i> | WA | Tech Note amended. |
| 2B007 <i>Tech Note</i> | Edit | Editorial change |
| 2B350.a. | AG | Niobium material added to entry. |
| 2B350.b. | AG | Niobium material added to entry. |
| 2B350.c. | AG | Niobium material added to entry. |
| 2B350.d. | AG | Niobium material added to entry. |
| 2B350.e. | AG | Niobium material added to entry. |
| 2B350.g. | AG | Niobium material added to entry. |
| 2B350.h. | AG | Niobium material added to entry. |
| 2B350.i. | AG | Niobium material added to entry. |
| Category 3 | | |
| 3A001.a.5.a.3., 4. & 5. | WA | Output rate parameter changed in sub-paragraphs. |
| 3A001.b.9. & <i>Tech Note</i> | WA | New entry for Microwave Power Modules with Tech Note. |

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| 3A001.e.1., <i>Note & Tech Note</i> | WA | Sub-entry and Note rewritten to control only cells. Includes new Tech Note. |
| 3A001.e.4. & <i>Tech Note</i> | WA | New sub-control for solar cells/arrays/panels with new Tech Note. |
| 3A001.g., <i>Notes 1 & 2 & Tech Note</i> | WA | New sub-entry for thyristor devices, with new Notes and Tech Notes. |
| 3A002.b. <i>Note</i> | WA | New Note added to sub-entry. |
| 3A002.d., <i>Tech Notes 1. & 2. & Notes 1. & 2.</i> | WA | Sub-entry control text for frequency generators amended; new Note 1 added; previous Note renumbered 2; new Tech Notes added |
| 3A002.d.3.a., b., c., d. & e. | WA | Sub-entry now includes 5 new sub-paragraphs. |
| 3A102 & <i>Tech Note</i> | MTCR | New entry for Thermal batteries with Tech Notes. |
| 3A228.c. | WA | Consequential amendment to sub-entry because of 3A001.g. |
| 3B001.f.2., 3. & <i>Note</i> | WA | New sub-entry for imprint lithography equipment with new Note; previous entry 2. renumbered 3. |
| 3B001.i. | WA | New sub-entry for imprint lithography templates. |
| 3C002.a. | WA | Parameter amended in sub-entry. |
| 3C005 | WA | New entry for silicon carbide wafers. |
| 3E001 <i>Note 2.</i> | WA | Editorial correction. |
| 3E002, a., b., c., <i>Tech Note & Notes 1. & 2.</i> | WA | Entry amended to remove CTP parameter; new 3 sub-paragraphs with Note and Tech Note; 2 new Notes added. |
| 3E101 | MTCR | Sub-entry amended. |
| 3E201 | WA | Consequential amendment to entry because of 3A001.g. |
| Category 4 | | |
| Tech Note on “CTP” | WA | Technical Note deleted. |
| Category 5 – Part 1 | | |
| 5A001.b. | WA | Entry heading amended. |
| 5A001.b.2., a. & b. | WA | Sub-entry heading amended; previous sub-paragraph a. deleted and sub-paragraphs of b. renumbered a. and b. |
| 5A001.g., <i>Tech Note & Note</i> | WA | New entry for Passive Coherent Location Systems with Tech Note and Note. |
| 5E001.c.4.c. | WA | New sub-entry for technology for radio equipment incorporating adaptive techniques. |

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| Category 6 | | |
| 6A002.a.3.d.1. | WA | Parameter amended in sub-paragraph. |
| 6A002.a.3.e. | WA | Parameter amended in sub-paragraph. |
| 6A004.a. <i>N.B</i> | WA | New Nota Bene. |
| 6A005.a., b., c. & d. | WA | Laser control entries rewritten. |
| 6A006 & d. | WA | “Compensation Systems” now a defined term. |
| 6A008 Note b. | WA | Decontrol Note for civil automotive radar amended. |
| 6A008.a.1 & 2. | WA | Control separated into 2 sub-paragraphs; current control in sub-para 1.; new sub-para 2. for location accuracy. |
| 6A108.b.2.a. | MTCR | Sub-paragraph amended. |
| 6A205.f. | WA | Consequential amendment as a result of 6A005. |
| 6B108 | MTCR | Control entry amended. |
| 6D003.f.1. | WA | “Compensation Systems” now a defined term. |
| Category 7 | | |
| 7A001 | WA | Chapeaux text amended to include all accelerometers |
| 7A001.a.1.a. & b. 2.a. & b | WA | Previous sub-paragraphs a. and b. rewritten and numbered 1. and 2. with new sub-paragraphs a. and b. |
| 7A001.a.3. | WA | Previous sub-paragraph c. renumbered 3. |
| 7A001.b. | WA | Angular and rotational accelerometers now specified in 7A001. |
| 7A002 | WA | Chapeaux text amended to remove accelerometers. |
| 7A002.a. & b. | WA | Sub-entries amended; Tech Note remove as there is now a defined term for “angle random walk”. |
| 7A002.c. & d. | WA | New sub-paragraph c. added; previous sub-paragraph c. renumbered d. |
| 7A003.d. | WA | New sub-entry for inertial measurement equipment. |
| 7A008, <i>Note & N.B.</i> | WA | New entry for under water sonar navigation equipment with Note and N.B. |
| 7A101.a.1. 2. & <i>Tech Note</i> | WA | Consequential change due to define term for “repeatability”; Tech Note 3 deleted. |
| 7A102 & <i>Notes 1. & 2.</i> | MTCR | Entry amended and new Tech Note added defining ‘stability’; Previous Note renumbered 2. |

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| 7A103 <i>Tech Note</i> | MTCR | Tech Note move from sub-entry b. to entry. |
| 7A103.b. | MTCR | Sub-entry text amended to include term ‘missiles’. |
| 7A103.c. <i>Tech Notes</i> | MTCR | Previous Tech Note 2 moved to 7A103; Previous Tech Note 1 renumbered 1, 2 and 3. |
| 7A103.d., 1., 2. & <i>Note</i> | MTCR | New sub-entry for three axes magnetic heading sensors with 2 sub-paragraphs and Note. |
| 7B003 <i>Note g.</i> | WA | New sub-paragraph for fibre optic coil winding machines added to decontrol Note. |
| 7B103.b. | Edit | Sub-entry amended to define “production equipment”. |
| 7D003.a. | WA | Entry text amended to include 7A008. |
| 7D003.b. | WA | Entry text amended to include 7A008. |
| 7D003.b.1. | WA | Sub-entry text amended to include ‘sonar’. |
| 7E004.a.7. | WA | New entry for under water navigation databases. |
| Category 8 | | |
| 8A002, a. & a.4. | WA | Entry and sub-entry amended. |
| 8A002.a.4 | WA | New sub-entry for components made from syntactic foam. |
| 8C001 <i>N.B.</i> | WA | N.B. added to entry |
| Category 9 | | |
| Cat 9 Heading | WA | Heading amended to include Aerospace. |
| 9A007 <i>N.B.</i> | Edit | N.B. amended. |
| 9A101 | MTCR | Chapeaux amended to remove reference to ‘lightweight’. |
| 9A111 | MTCR | Entry text for UAVs added. |
| 9A118 | MTCR | Entry text for UAVs added. |
| 9B105 | MTCR | Entry text amended to include local definition for ‘missiles’. |
| 9B117.a. | MTCR | Thrust parameter changed in sub-paragraph. |
| 9D004.f. | WA | New entry for software for the design of internal cooling passages of turbine blades. |
| 9D004.g., 1., & 2. | WA | New entry with 2 sub-entries for software for predicting conditions in gas turbines. |
| 9E001 | WA | Entry text amended. |
| 9E002 | WA | Entry text amended. |

ANNEX IV

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| 1C101 <i>Note & Tech Note</i> | Edit | New decontrol Note added for materials formulated for civil applications; New Tech Note added for local definition of missiles |
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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, the Missile Technology Control Regime and the Nuclear Supplier Group subsequent to the amendments made to those Annexes by Regulation (EC) No 394/2006.
- (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 394/2006 (OJ L 74, 13.3.2006, 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