



Denis Redonnet, representing the European Commission (COM), opened the Forum and welcomed the 250 representatives of key stakeholders, including experts from Member States and the European Parliament, key industry associations, dual-use exporters from a variety of high-tech sectors (electronics, mechanical/industrial equipment, chemical, nuclear, security and defence, IT/computers and telecommunication, aerospace/space etc), as well as civil society representatives – NGOs, research centres and academia. He underlined that trade and security are mutually reinforcing and explained that the Commission proposal is ambitious - with approx. 50 substantive changes to export control regulations – but basically follows two broad orientations: a "*system upgrade*", on the one hand, and a '*system modernisation*' through the introduction of a new dimension - the "*human security approach*" - on the other. He underlined that the proposal builds on intensive discussions with stakeholders in the course of the export control policy review, and invited stakeholders to continue engagement and efforts towards more efficient and effective controls.

Klaus Buchner, rapporteur of the European Parliament for the proposal, recalled the European Parliament's long-standing positions regarding the necessary modernisation of EU export controls, stressed that the 2014 Joint Statement of the three institutions provided a strong political basis for action, including on the introduction of a human security dimension. MEP Buchner welcomed the Commission's proposal, and stressed the Parliament's determination to break the link between exports of EU dual-use technologies and violations of human rights, at a time when we prepare to celebrate the 70th anniversary of the adoption of the 1948 Declaration on human rights. MEP Buchner outlined the key steps in the upcoming parliamentary examination of the Commission's proposal for a modernisation of EU export controls and underlined the European Parliament's eagerness to benefit from the expertise of stakeholders and to maintain a continuous dialogue throughout the legislative process.

Jana Sermekova, representing the Slovak Presidency of the Council of the European Union, recalled the Council's conclusions of 2014 and presented the Council's perspectives on the modernisation of EU controls, and stressed Member States' continued engagement in the export control policy review.

Ms Sermekova further informed of Presidency actions and plans for discussions of the legislative proposal.

With respect to the **human security dimension (Panel 1)**, COM pointed to the general recognition by all stakeholders – EU institutions, industry and civil society – that controls need to adjust to emerging technologies and an evolving security environment, presented its key elements of the human security dimension – revised definitions combined with effective and competitive control parameters through autonomous list-based controls and a new "targeted catch-all control" incorporating "filters" and designed in such way so as to trigger controls only on very specific items and very specific situations, so that economic impact should be minimised.

Most participants recognised that controls need to "enter into a new area", and some participants highlighted the ever-growing political concerns associated with cybersecurity technologies, at a time when election interference and disinformation become primary concerns in many states.

Participants discussed challenges to the implementation and enforcement of human rights controls and cautioned against risks of overreaction by companies and associated administrative burden for administrations. They generally called for clarifications to support the implementation of the new controls - especially the "targeted catch-all" and notions of "serious human rights violations", relevant public organisations" and "due diligence". Participants also called for a clarification of the types of technologies and company profiles concerned by the "targeted catch-all control" and stressed the need to avoid any hindrance to the development of key digital technologies that are essential to the EU's economic development. With due respect to the key role of authorities as a source of information on e.g. human rights violations, COM called on companies to fully play their role as 'first line of defence' by using their existing due diligence processes to screen the information at their disposal, and underlined that the proposed "partnership with the private sector" includes a number of measures simplifying the administration of controls and reducing the administrative burden on companies. Some participants took the view that enhanced transparency e.g. regarding licensing practices would also be needed to ensure effective and consistent application of controls.

Participants pointed to the risks associated with a unilateral EU approach diverging from multilateral export control regimes in terms of distortions of the global level playing field and impact on EU competitiveness, and stressed the need for active engagement with partner countries to support the continued convergence of controls. Participants discussed national experience of the application of controls and potential effects e.g. in terms of delocalisation of companies.

Participants considered alternative courses of actions e.g. through sanctions. COM noted that sanctions reflect a serious deterioration of relations with a third country while export controls involve a case by case assessment of transactions and do not otherwise affect the EU's relation with third countries. Participants also discussed EU action in the Wassenaar regime and assessed the limitations of consensual multilateral fora.

With respect to the **optimisation of the licensing architecture (Panel 2)**, participants supported the introduction of new specific EU General Export Authorisations that are well-suited to the necessities and realities of global trade and could reduce significantly the administrative burden associated with the management of controls. Participants specifically welcomed "innovation-friendly" proposals e.g. on intra-company technology transfers. Participants also raised specific issues e.g. the possibilities of

use of EUGEAs by all entities belonging to the same group. Participants also discussed prospects for a re-evaluation of intra-EU transfer controls, recalling the need for controls to ensure respect of international obligations and discussed prospects for an update of the list of technologies and the introduction of new control modalities, including possibly ex-post controls in the EU.

With respect to the ***convergence of catch-all controls (Panel 3)***, participants recalled the debate on their implementation, associated administrative burden – especially for SMEs - and economic impact and stressed the need for clarity, simplicity and predictability. Participants discussed the implications of the proposed drive towards a legal recognition of Internal Compliance Programmes (ICPs). Some Participants pointed to the experience acquired by the EU in other areas such as the "GSP Plus" applicable to countries that have ratified and effectively implemented key international conventions on sustainable development, labour rights and good governance. Participants discussed the anticipated costs and benefits, proposed mandatory consultation mechanism in light of industry complaints regarding the divergent application of controls, but also licensing offices' timelines and resources.

Participants also discussed the extension of ***brokering, technical assistance and transit*** controls to human rights and terrorism, with some participants expressing concern regarding the introduction of elements of extra-territorial application of controls.

With respect to ***"export control in the digital age" (Panel 4)***, some participants emphasised the necessity to modernise control approaches in light of cyber-threats and cloud computing and underlined e.g. that real-time information sharing was critical to effective controls in the digital age. Other participants called on the EU to ensure the coherence of its overall trade policy and avoid that controls create obstacles to the free trade in digital goods at a time when a new Information Technology Agreement (ITA2) has just been signed in Dec. 2015 and when the EU has prioritised the development of a "Digital Single Market". Participants again noted that some proposed EU General Export Authorisations – e.g. on intra-company transfers and encryption – could go a long way in facilitating legitimate digital trade. Participants also underlined the need for clarifications on the implementation of new concepts and provisions e.g. the revised definition of dual-use goods and targeted catch-all control for human security, and called for the development of guidelines for exporters, including academia. In this respect, some participants welcomed the proposal's clarification of controls on technology transfers but questioned its perceived lack of ambition regarding the control of dual-use research.

With respect to ***"implementation, enforcement and private sector partnership" (Panel 5)***, participants considered that support tools such as ICPs, industry consultations and guidelines could play a useful role in efficiently sharing the burden between industry and authorities, and eventually enhancing the effectiveness of controls. Some participants shared experiences in the promotion of ICPs globally, including in a United Nations framework, and promoted a risk-based approach for more efficient controls. Some participants drew attention to the need to develop consistent EU approaches to implementation modalities e.g. to the validity of licences or the licensing timelines. Participants also recognised the need for the EU to be able to swiftly adapt its legislation e.g. through delegated acts, but some participants warned that regulations should not become too prescriptive and favoured soft law approaches to clarify detailed implementation modalities. Participants stressed that well-defined legal terms and transparency was indispensable e.g. to support companies

due diligence and stressed the importance of guidelines and data sharing from the authorities to support effective implementation by exporters. Some Participants called for greater public transparency e.g. expanded EU annual reports and publication of more detailed licensing data.

Some industry participants expressed readiness to engage into technical consultations e.g. regarding updates to EU control lists or guidelines and called for a permanent technical group to be set up. Participants recognised that EU-wide training and capacity-building – for administrations and for exporters alike - could usefully support the effective and consistent application of controls and identified enforcement as the "new frontier" for EU export controls, especially as resource limitations constrain the EU's capacity to modernise "in-depth" its export control system.

With respect to the drive "**towards a global level playing field**" (**Panel 6**), some participants stressed that human rights in third countries were vital for legitimate business to prosper and encouraged the EU to set global standards, while others emphasised the risk that autonomous controls could create divergences with export control regimes and other countries' export controls to the detriment of EU industry. Some participants also warned that the extra-territorial application of controls might create jurisdiction conflicts for companies operating globally. Participants noted the Commission proposal's approach to step up actions to promote the global convergence of controls and some participants suggested considering actions in the context of bilateral trade agreements as well as within the Single Market to balance the unfair competitive advantages benefiting firms from third countries with weak or no export control systems, and to promote the global convergence of controls. Some participants pointed to the importance of "outreach" to promote global export controls, and observed that further efforts to develop "inreach" (EU-wide capacity building) are indispensable to a balanced and consistent approach avoiding a "race to the bottom".

Anders Jessen (European Commission), concluded the Forum, and invited participants to continue engagement and efforts towards more efficient and effective EU export controls.