

8 April 2008

BUSINESSEUROPE STATEMENT ON THE CURRENT REFORM OF THE EU DUAL USE REGIME

In light of ongoing negotiations in Council on the proposed reform of the EU regime for control of exports of dual use products, BUSINESSEUROPE submits the following comments.

Catch-all clauses

BUSINESSEUROPE's reiterates the importance of updating these provisions. This area is one of the most opaque and burdensome of the regime for companies.

Major concerns

Article 4.1: The continued inclusion of items for the detection and identification of WMD is of considerable concern here as it covers a very broad range of products that do not warrant inclusion in this highly restrictive procedure. Article 4.1 should be reserved for genuine proliferation activity.

If detection and identification cannot be excluded from Art 4.1, it has to be ensured that at least provisions referring to this article (e.g. on "brokering" or transit) do not include these items. Otherwise, the wide range of products would continue to be subject to more regulation although this is not required by UNSC-Resolution 1540.

Article 4.8: The Commission's suggested introduction of a fast advice procedure for informing companies if an authorisation is required was one of the most welcome elements of its proposal. BUSINESSEUROPE strongly supports the suggestion and believes a shorter deadline than the proposed 20 days would improve on it.

Article 4.6: BUSINESSEUROPE supports the information sharing measures between Member States proposed as it may contribute to a more efficient process in the medium term. However, we continue to emphasise the need for efforts to improve transparency for companies in order to enhance the predictability of the process. .

Transit

Companies remain sceptical of the effectiveness and efficiency of introducing controls on transit. However, in light of the advanced nature of the debate on these areas, have the following points.

Major concerns

The texts under discussion now include a proposal that authorisations could be required for the transit of goods listed Annex 1. This would place an enormous new burden on industry, without certainty of achieving improved security; and fail completely to respond to the better regulation criteria of the recast effort.

In this light, the Commission's proposal to permit governments to control and ultimately prohibit shipments they suspected of being used for transit of goods in Article 4.1 is

superior. Clarity will, nonetheless, be needed on mechanisms to deal with goods taken into possession by authorities.

Intangible technology transfer

Industry continues to believe that multinational companies should be treated as one entity for the purposes of ITT but recognises that this is not currently under discussion.

Major concern

As such the major issue for business in the current legislation is the wording of Article 16 2 iii. We suggest that the paragraph should be deleted.

Intra community transfers

BUSINESSEUROPE emphasises that the liberalisation of intra-community transfers should be the aim of the EU in this area.

Major concern

The reforms proposed by the Commission for a liberalisation of intra-community trade go in the right direction. Business however would prefer an ex-post notification instead of prior notification. In any case, the EU must take care to ensure that red tape is not increased by any new system. In some cases current systems may be less burdensome than reporting for individual transactions.

New Community General Export Authorisations (CGEA)

BUSINESSEUROPE supports the new CGEAs proposed by the Commission.