BUSINESSEUROPE

POSITION PAPER

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MAINTAIN EXPORT CONTROLS AS AN EFFECTIVE INSTRUMENT

1. INTRODUCTION

European companies support the principle of export controls on dual use goods and are compliant with current EU and international regulation to this end, while advocating reform to improve effectiveness and efficiency. Most companies have committed a large amount of resources to creating export control management systems and training their employees in order to comply with existing regulations. They continuously strive to improve their systems, even as they face fierce competition on international markets.

However, proposals that are currently being discussed in the Financial Action Task Force (FATF), an inter-governmental body at OECD level go in the wrong direction. The FATF proposal to introduce obligations for banks to conduct comprehensive country- and goods-specific reviews in relation to export transactions for which they provide financing is of serious concern. This is particularly important as such ideas can be taken up in EU legislation, as has been the case in the context of the restrictive measures against Iran in Council Regulation (EC) No 1110/2008.

2. NO TRANSFER OF CONTROL TASKS TO BANKS

For European business it is of the utmost importance that sanctions are implemented effectively, without unduly affecting trade in unrestricted goods. Requiring banks to conduct comprehensive country- and goods-specific reviews will create additional burden for companies, without leading to an improvement in the compliance with export controls. As regards burdens:

- *A new bureaucratic layer with additional expenses for banks, industry and the responsible national authorities would be created.* Such a system would not, however, generate the intended added value in terms of sanctions enforcement.
- *The inclusion of banks will result in both delays and cost increases from processing foreign trade transactions due to increased review obligations.* The limited capacity of the national authorities to process requests from banks would lead to delays and require the allocation of additional resources.

AV. DE CORTENBERGH 168
BE-1000 BRUSSELS
BELGIUM
VAT BE 863 418 279

TEL +32(0)2 237 65 11
FAX +32(0)2 231 14 45
E-MAIL: MAIN@BUSINESSEUROPE.EU
WWW.BUSINESSEUROPE.EU

This extra burden would come at no value added in terms of security:

- *There will be an increase in the number of requests to national authorities related to non-sensitive exports at the expense of sensitive exports.* While banks have some experience in dealing with other areas of security and sanctions issues, it is evident that the FATF's proposed broadening of their involvement in the export controls process is beyond their capacity to manage effectively. Faced with limited expertise, banks would automatically approach national authorities in order to protect themselves from possible legal action. As the capacity of national authorities to process such requests is already strained, this will be at the expense of effectively controlling exports that actually are sensitive.
- *Shared duties between companies and banks are likely to create confusion as to the ultimate bearer of responsibility for transactions.* Checking the quality of licenses obtained by an exporting company, its products or services, is clearly a state prerogative. Guaranteeing compliance with state controls is the responsibility of the exporting company. The inclusion of another private sector actor in internal export controls system would blur these responsibilities and undermine the objectives of export control.

3. Conclusion

Companies support an effective and efficient export control system for sensitive goods. However, FATF proposals to include banks in the export controls system do not contribute to this objective. It is indisputable that anything that would spread responsibilities between different private sector actors, namely companies and banks, would strongly harm counties' export control objectives. In addition, the expected additional benefits of such a proposal are negligible when compared to the administrative expense of its implementation. BUSINESSEUROPE therefore calls on the EU to firmly reject this excessively burdensome measure.

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