



THE 11TH JOINT INDUSTRY OUTREACH SEMINAR ON STRATEGIC TRADE MANAGEMENT - SINGAPORE 2023

Developments in the European Union's strategic trade control framework

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EU P2P
export control programme
for dual use goods



Developments:

1. Initiated by the EU institutions
2. EU list - 2022/2023 updates
3. State-of-play of the European Commission's guidance documents
4. New EU outreach project on sanctions' implementation





1. Developments from the EU institutions

- **European Commission DG Trade (public consultation):** Guidelines for data collection and preparation of the EU annual report on dual-use export controls under (Article 26) Regulation (EU) 821/2021)
 - From 24/01 to 28/02/2023
 - Open to all stakeholders (e.g. exporters, industry associations, government authorities, academia, research institutions and non-governmental organisations)
 - Guidelines is expected as an output for collecting data on licensing, administration (new) and enforcement (new) of controls
- **European Commission DG Trade (public consultation):** Guidelines on the export of cyber-surveillance items under Article 5 (of Regulation (EU) No. 2021/821)
 - From 31/03 to 09/06/2023
 - Open to all stakeholders (e.g. exporters, industry associations, government authorities, academia, research institutions and non-governmental organisations)
 - Guidance is expected as an output





1. Developments from the EU institutions

- **European Commission DG Trade (public consultation):** Screening of foreign direct investments (FDI) – evaluation and possible revision of the current EU framework (Regulation (EU) 2019/452)
 - From 14/06 to 14/07/2023
 - All stakeholders with first-hand experience of investment screening (e.g. businesses and their associations, law firms and consultants, EU Member States' public authorities). Contributions from other stakeholders, such as Think tanks, academic and research institutions, NGOs, civil society organisations, international organisations, governments of non-EU countries are also welcome.
 - Aim: To ensure that it remains fit for purpose in a changing global security context. Based on the outcome of the evaluation, the Commission may propose a revision of the rules while keeping the focus of the framework exclusively on security and public order.
- EU Member States (15 June 2023) : [Information Note - Regulation \(EU\) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items: Information on measures.](#)





1. Developments from the EU institutions

- EU sanctions:
 - [EU Sanctions Map](#)
 - [Overview of the EU sanctions related to Russia 's military aggression against Ukraine](#)
 - [Council Decision \(EU\) 2022/2332 of 28 November 2022 on identifying the violation of Union restrictive measures as an area of crime that meets the criteria specified in Article 83\(1\) of the Treaty on the Functioning of the European Union](#)
- European Commission (20 June 2023): [European Economic Security Strategy](#)
 - Seeks to enhance coordination between the EU Member States in **export controls** while regimes are under pressure
 - A Commission proposal is expected before the end of 2023 (including a list of economic security critical dual-use items).
 - Stresses the need for enhancement a holistic approach of strategic trade and **foreign investments** controls based on security risks
 - A Commission proposal is expected before the end of 2023.





2. EU list - 2022/2023 updates

COMMISSION DELEGATED REGULATION (EU) 2023/66 of 21 October 2022 (in force since January 2023)

- Category 0 - **Nuclear Materials, Facilities and Equipment**
- Category 5 - **Telecommunications**
- Category 7 - **Navigation and Avionics**
- Category 8 - **Marine**
- Annex IV – Intra-EU transfers

No change!





2. EU list - 2022/2023 updates

COMMISSION DELEGATED REGULATION (EU) 2023/66 of 21 October 2022 (in force since January 2023)

- **Category 1 - Special Materials and Related Equipment**
 - 1C006b - Lubricating materials: *Sub-entry 1C006b2, covering certain fluorinated silicone fluids, was deleted.*
- **Category 2 – Material Processing**
 - 2b006b and 2B206c - Linear displacement measuring instruments: *Technical notes were added to define the term 'resolution'.*
 - 2B352 - Software for nucleic acid assemblers and synthesisers: *A list entry for software in connection with 2B352i (capable of designing and building functional genetic elements from digital sequence data) was introduced.*
 - 2E003b2 - Technology for manufacturing processes: *The sub-entry 2E003b2, covering technical data of certain processes (superplastic forming and diffusion bonding), was deleted.*





2. EU list - 2022/2023 updates

COMMISSION DELEGATED REGULATION (EU) 2023/66 of 21 October 2022 (in force since January 2023)

- **Category 3 - Electronics**

- 3A001b11, 3.A.002d3 and 3A002d5 - Frequency synthesisers and signal generators: *List entries have been modified to acknowledge developments in the field of automotive radar.*
- 3C001, 3C005, 3C006 and 3E003h -- Hetero-epitaxial materials, high resistivity materials and technology: *Controls were modified to reflect the potential of certain materials such as gallium oxide or diamond.*
- 3D006 - Design software for Gate-All- Around Field-Effect Transistor structure: *A new entry was added, covering software tools for integrated circuits.*

- **Category 4 – Computers**

- 4A003b - Digital computers: *The parameter adjusted peak performance was increased from 29 to 70 weighted TeraFLOPS.*





2. EU list - 2022/2023 updates

COMMISSION DELEGATED REGULATION (EU) 2023/66 of 21 October 2022 (in force since January 2023)

- **Category 6 – Sensors and lasers**

- 6A005d1b - Semiconductor lasers: *The parameter output power was increased from 15 to 25W.*
- 6A108 and 6A008I4 - Radar systems and equipment: *The term ‘used’ has been changed to ‘designed’. Consequently, the decontrol notes in connection with vessel traffic service or certain marine radar are now based on technical characteristics rather than the stated end use.*
- 6D003h - Air traffic control software: *‘Software application programmes’ was changed to ‘software’.*

- **Category 9 – Aerospace and propulsion**

- 9A004g and 9A004h - Aircrafts as air-launch platforms: *New entry for air launch platforms for space launch vehicles + the launch of ‘sub-orbital crafts’ was added on top of the launch of ‘space launch vehicles’.*
- 9B001c - Additive-manufacturing equipment: *This sub-entry was modified, changing the focus of related manufacturing equipment from certain parts such as blades and vanes to superalloys.*
- 9E003.2.e - Technology for gas turbine engine systems: *A new sub-entry was added, covering pressure gain combustion.*





2. EU list - 2022/2023 updates

COMMISSION DELEGATED REGULATION (EU) 2023/996 of 23 February 2023 (in force since May 2023)

- **Category 1 - Special Materials and Related Equipment**

- 1C351.d.13 – Cholera toxin: *Removed*
- 1C351.d.20 – Brevetoxins: *New entry*
- 1C351.d.21 – Gonyautoxins: *New entry*
- 1C351.d.22 – Nodularins: *New entry*
- 1C351.d.23 – Palytoxins: *New entry*
- 1C354.b.2, b.4, c.2, c.3: *Taxonomy was adjusted*

- **Category 2 – Material Processing**

- 2B352.d.1.b Cross (tangential) flow filtration equipment capable of separation of "microorganisms", viruses, toxins or cell cultures (Technical Note): *New definition of 'disinfected'*





3. State-of-play of the European Commission's guidance documents

- Export Control Handbook for Chemicals
- 2021 edition
- Guidance on due diligence for EU businesses to address the risk of forced labour in their operations and supply chains
- July 2021 edition



JRC TECHNICAL REPORT

Export Control Handbook for Chemicals (2021 edition)

Dual-use, military list, hazardous chemicals, explosives and drugs precursors, sanctions and anti-torture

Amis-Nowak, X
Savel, F

2021



12.07.2021



GUIDANCE

ON DUE DILIGENCE FOR EU BUSINESSES TO ADDRESS THE RISK OF FORCED LABOUR IN THEIR OPERATIONS AND SUPPLY CHAINS¹

INTRODUCTION

An estimated 25 million people are in forced labour globally.² Out of this number, 16 million are exploited in the private sector, 4.8 million are in forced sexual exploitation and 4 million in forced labour imposed by state authorities. Women and girls are disproportionately affected by forced labour.

Combating forced labour is a priority for the EU.³ In line with the EU Charter of Fundamental Rights, the EU is committed to eliminating all violations of fundamental principles and rights at work, including forced labour, promoting the protection of victims of business-related abuses, as well as ratification and effective implementation of ILO fundamental conventions. In accordance with the EU Treaties, the EU promotes respect for human rights, including labour rights, in the world. This includes also a long standing commitment of the EU to "decent work"⁴.

Responsible business conduct by European companies plays a crucial role in ensuring that EU policies on human rights are effectively implemented, including with regard to labour. The EU is committed to promoting the implementation of responsible business conduct⁵ across all sectors of production and all levels of the supply chain and the protection of victims of business-related human rights violations and abuses, and calls on EU companies to respect human rights, including labour rights, regardless of their location, size, sector, operational context, ownership and structure.

¹ The information set out in this document does not necessarily reflect the official position of the European Commission or the European External Action Service, which under no circumstances can be held liable or responsible for the use that may be made thereof.

² Global Estimates of Modern Slavery (2017); https://www.ilo.org/wcmsp5/groups/public/-/dgreports/@dcomm/documents/publication/wcms_575479.pdf

³ See for instance EU Action Plan on Human Rights and Democracy 2020-2024

⁴ <https://www.consilium.europa.eu/media/465638/na122816-en20.pdf>

⁵ E.g. European Commission Communication, Promoting decent work for all - The EU contribution to the implementation of the decent work agenda in the world, COM/2006/0249 final; Council Conclusions on Human Rights and Decent Work in Global Supply Chains, December 2020;

⁶ See European Commission, Staff Working Document, Corporate Social Responsibility, Responsible Business Conduct, and Business & Human Rights: Overview of Progress, March 2019; [https://ec.europa.eu/transparency/documents-register/detail?ref=SWD\(2019\)143&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=SWD(2019)143&lang=en)





3. State-of-play of the European Commission's guidance documents

- [EU Guidance on Internal Compliance Programmes for Dual Use Trade Controls](#)
- 2019 version
- [EU Guidance for Internal Compliance Programmes for controls of Research involving dual-use items](#)
- September 2021 version

RECOMMENDATIONS

COMMISSION RECOMMENDATION (EU) 2019/1318 of 30 July 2019

on internal compliance programmes for dual-use trade controls under Council Regulation (EC) No 428/2009

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Having regard to Article 19(5) of Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items ⁽¹⁾,

Whereas:

- (1) Regulation (EC) No 428/2009 sets up a Union regime for the control of exports, transfer, brokering and transit of dual-use items.
- (2) An effective, uniform and consistent system of export controls on dual-use items is necessary to promote EU and international security and to ensure both compliance with the international commitments and responsibilities of the Member States and of the European Union (EU), especially regarding non-proliferation, and the promotion of a level playing fields among EU operators.
- (3) Common approaches and practices as regards internal compliance programmes can contribute to a uniform and consistent application of controls throughout the EU.
- (4) Taking into consideration rapid scientific and technological advancements and the complexity of today's supply chains, effective trade controls depend to a great extent on the awareness of exporters and their active efforts to comply with trade restrictions. To this end, companies usually put in place a set of internal policies and procedures, also known as an Internal Compliance Programme (ICP).
- (5) This guidance provides a framework to help exporters identify, manage and mitigate risks associated with dual-use trade controls and to ensure compliance with the relevant EU and national laws and regulations.
- (6) This guidance also provides a framework to support Member States competent authorities in their assessment of risks, in the exercise of their responsibility for deciding on individual, global or national general export authorisations, on authorisations for brokering services, on transits of non-Community dual-use items or on authorisations for the transfer within the Community of the dual-use items listed in Annex IV of Regulation (EC) No 428/2009.
- (7) This guidance should be non-binding and exporters shall maintain the responsibility to comply with their obligations under the Regulation, while the Commission should ensure that this guidance remains relevant over time.

⁽¹⁾ OJ L 134, 29.5.2009, p. 1.

II

(Non-legislative acts)

RECOMMENDATIONS

COMMISSION RECOMMENDATION (EU) 2021/1700 of 15 September 2021

on internal compliance programmes for controls of research involving dual-use items under Regulation (EU) 2021/821 of the European Parliament and of the Council setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items

THE EUROPEAN COMMISSION,

Having regard to Article 26(1) of Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 ("Regulation (EU) 2021/821") setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items ⁽¹⁾,

Whereas:

- (1) Regulation (EU) 2021/821 sets up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items.
- (2) An effective, uniform and consistent system of export controls on dual-use items is necessary to promote EU and international security and to ensure both compliance with the international commitments and responsibilities of the Member States and of the European Union (EU), especially regarding non-proliferation, and the promotion of a level playing fields among EU operators.
- (3) Common approaches and practices as regards internal compliance programmes can contribute to a uniform, efficient, effective and consistent application of controls throughout the EU.
- (4) Taking into consideration the growing importance of export controls within integrated markets, the rapid scientific and technological advancements, the role of research organisations and researchers and how the European research and innovation sector can attract public and private investments from across the world, the effectiveness of export controls depend to a great extent on the awareness of research institutions and their active efforts to comply with export restrictions. To this end, research institutions can put in place a set of internal policies and procedures, also known as an Internal Compliance Programme.
- (5) This recommendation provides a framework to help research organisations and researchers, research managers and compliance staff to identify, manage and mitigate risks associated with dual-use export controls and to facilitate compliance with the relevant EU and national laws and regulations.
- (6) This recommendation also provides a framework to support Member States competent authorities in developing specific outreach programmes, as well as in their assessment of risks related to research activities, in the exercise of their responsibility for deciding on export authorisations for dual-use items listed in Annex I of Regulation (EU) 2021/821.

⁽¹⁾ OJ L 206, 11.6.2021, p. 1.

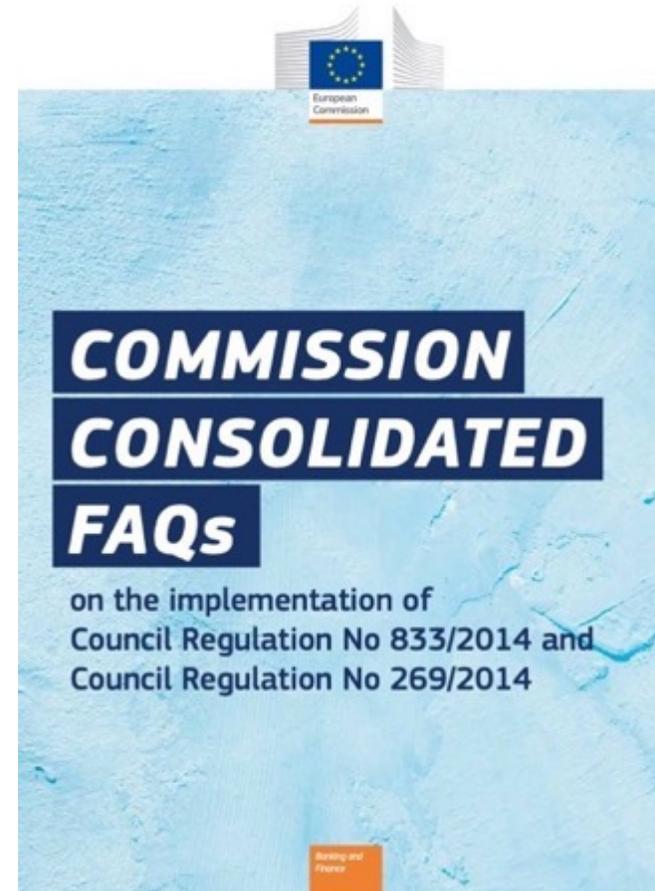




3. State-of-play of the European Commission's guidance documents

- [\(Consolidated\) FAQ on EU sanctions on Russia](#)
- July 2023 version
- *Deals with all sectors of the sanctions and corresponding good/best practices*

- [Addressing the circumvention of EU export restrictions against Russia – List of High Priority Battlefield Items](#)
- June 2023 version
- *Identifies 38 critical HS codes for supporting due diligence and effective compliance by exporters and targeted anti-circumvention actions by customs and enforcement agencies of partner countries determined to prevent that their territories are being abused for circumvention of EU sanctions purposes*



Addressing the circumvention of EU export restrictions against Russia – List of High Priority Battlefield Items

The EU and its international partners responded to Russia's war of aggression against Ukraine on 24 February 2022 with massive and comprehensive restrictive measures. The sectoral sanctions aim at curtailing Russia's ability to wage the war, depriving it of critical technologies and markets and significantly weakening its industrial base.

Regulation 833/2014 imposing sanctions against Russia has sharpened and includes prohibitions on the export, sale, transfer of dual-use goods and advanced technology items to target sensitive sectors in Russia's military industrial complex and to limit its access to crucial advanced technology.

The European Commission services, in coordination with the competent authorities in the US, the UK and Japan, have identified a number of prohibited dual-use goods and advanced technology items used in Russian military systems found on the battlefield in Ukraine or critical to the development, production or use of those Russian military systems. These items include electronic components such as integrated circuits and radio frequency transceiver modules, as well as items essential for the manufacturing and testing of the electronic components of the printed circuit boards retrieved from the battlefield.

These battlefield items have been grouped into a list of High-Priority Battlefield Items, which can be found in the Annex. The List may support due diligence and effective compliance by exporters and targeted anti-circumvention actions by customs and enforcement agencies of partner countries determined to prevent that their territories are being abused for circumvention of EU sanctions purposes.

The List of High Priority Battlefield Items is divided into four Tiers containing a total of 38 (Harmonised System codes) dual-use and advanced technology items sanctioned under the Russia Sanctions Regulation and involved in Russian weapons system used against Ukraine, including e.g. the Kalibr cruise missile, the Kh-101 cruise missile, the Orian-10 UAV and the Ka-52 "Alligator" helicopter.

The list is divided into four Tiers:

- **Tier 1** comprises 4 HS codes which describe integrated circuits (also referred to as microelectronics).
- **Tier 2** comprises 5 HS codes containing electronics items related to wireless communications, satellite-based radio-navigation and passive electronic components.
- **Tier 3** comprises 19 HS codes containing discrete electronic components, electrical plugs and connectors, navigation equipment, digital cameras and related optical components.
- **Tier 4** includes 10 HS codes concerning manufacturing equipment for production and quality testing of electric components and circuits.





4. New EU outreach project on sanctions' implementation

WAR IN UKRAINE/TRADE AND TECHNOLOGY COUNCIL – JUNE 2022

THE ANNOUNCEMENT OF THE CREATION OF AN EU SPECIAL ENVOY ON SANCTIONS – Mr. DAVID O'SULLIVAN – FALL 2022

DECISION TO CREATE AN AUTONOMOUS EU SANCTIONS OUTREACH MISSION PROGRAMME

POLITICAL OUTREACH: RUSSIA/BELARUS SANCTIONS





4. New EU outreach project on sanctions' implementation

COMMISSION (FPI)
EUP2P
EXPORT CONTROL
CAPACITY-BUILDING
REGIONAL
PROGRAMS

SCIENCE CENTERS

TARGETED INITIATIVE PROGRAM

Targeted Initiative
Export Control

Targeted Initiative
Restrictive Measures





4. New EU outreach project on sanctions' implementation

EXPRESSION OF NEEDS

- TRADE
- FISMA
- FPI
- TAXUD
- OLAF
- JRC
- *EEAS/EU DELEGATIONS*

AGENDA COORDINATION STEERING COMMITTEE

- **LEAD: FISMA**
- PoC :
 - FPI
 - Trade F4
 - Trade E2
 - Taxud
 - OLAF
 - EEAS

TRAINING ON THE SPOT

- **LEAD TRAINING COORDINATOR + TEAM OF EXPERTS:**
 - EU OFFICIALS
 - EXPERTS FROM MEMBER STATES
 - PRIVATE CONSULTANTS
- Day 1: **public sector**
- Day 2: **private sector**





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