



Customs Flash Belgium

Revision of “Dual Use Regulation” Annex 1



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The European Commission recently published Regulation 1382/2014 of 22 October 2014 establishing a [revised Annex 1 to Regulation \(EC\) 428/2009](#) ('dual use regulation'). The new Annex 1 of the dual use regulation entered into force on 31 December 2014.

Annex I of the dual use regulation establishes the common list of dual-use items, i.e. items that can be used for both civilian and military purposes and/or can contribute to the proliferation of Weapons of Mass Destruction; such items are subject to controls throughout the European Union ('EU'). This dual use control list is based on a multilateral framework of export control regimes, conventions and treaties, such as the Australia Group, the Missile Technology Control Regime, the Nuclear Suppliers Group, the Wassenaar Arrangement and the Chemical Weapons Convention (hereafter referred to as export control regimes). In order to fully comply with its international security obligations and maintain exporter competitiveness, the EU needs to update the dual use control list frequently.

Revision of dual use control list

The recent amendments incorporate revisions made to the export control regimes in the 2011-2013 period. In this respect, some 400 revisions are introduced covering all categories (i.e. categories 0 to 9) of the dual use control list. This includes the addition and/or specification of various dual-use items, such as graphite, frequency changers, machine tools, viruses and toxins, integrated circuits and explosives. The revision also takes into account more recent security concerns regarding the use of surveillance technology and cyber tools that could be misused in violation of human rights or against the EU's security, leading to new categories of items such as IT intrusion software ('spyware') as well as telecommunication and internet surveillance equipment.

On the other hand, the revision removed certain items and technologies from the dual use control list, which have become more widely available and represent a lower security risk (of which the control is therefore no longer required).

The newly revised Annex 1 also has several amendments to the notes mentioned throughout the dual use control list. These notes provide clarifications as to the interpretation of controlled items or provide exemptions from licensing requirements. An important category specific revision can be found in Category 5 part 2, which amends the encryption notes

What does it mean for you?

Given its broad range, the revision is likely to affect all industries. New export authorisations may be required, depending on export authorisations that companies already have in place and the viewpoint of the national authorities involved. However, it is also possible that certain products will no longer require an EU export authorisation prior to export.

What to do?

In order to assess whether companies could be affected, it is essential to review whether or not products in the product portfolio are (still) in the dual use control list, or mentioned in the newly

added references/ notes. Due to the aforementioned amendments, companies should further reassess and potentially update their existing internal compliance programs and export control authorisations in order to stay compliant with the European and national export control regimes.

Deloitte's Customs and Global Trade team is happy to assist with such an assessment and discuss possible impacts.

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