

## NOTE

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### **Response from the Danish Government to the public consultation on the export control policy review.**

The Danish government appreciates the opportunity to set forth our views on the review of the European export control system.

In the communication The Review of export control policy: ensuring security and competitiveness in a changing world (COM(2014) 244 final) the European Commission has outlined its view on the global security situation and how developments in the global economy have changed how the EU must counter the spread of weapons of mass destruction and build its dual-use export control system. The Danish government shares many of the views presented and therefore welcomes the review of the dual-use regulation.

The Danish government agrees with the European Commission that the European export control legislation is basically well functioning and a solid basis for the control of the trade in dual-use products. There are however, areas where the regulation needs adjustments in order to keep up with the rapid changes in the international security situation, technological developments and changes in global trade patterns.

Danish stakeholders have been consulted in the drafting of this paper.

#### The Danish Government's priorities

For the Danish government, the highest priority and overall concern regarding the implementation of export control is the lack of a level playing field across Europe. In addition the Danish government strongly encourages the European Commission in its drafting of the new regulation to keep a constant focus on the lowering of administrative burdens for European companies in order not to hamper European growth and job creation.

#### A level playing field

The current dual-use regulation sets out the framework for all European member states, but has in some areas a quite broad spectrum for interpretation and the possibility for each member state to set its own standards for export control including in regards to the implementation of the catch-all clause. Many European companies are operating on a global scale and hence also do business in several European countries. In practice companies need to manage 28 different export control systems, which causes

unnecessary administrative burdens for European companies, and weakens an otherwise effective European export control.

Therefore the Danish government fully supports initiatives that can lead to a real level playing field in the European export control system.

#### European General Authorizations (EUGEAs)

EUGEAs make EU companies able to export controlled goods to low risk destinations with a minimum of administration. Currently six different EUGEAs are available for European companies.

The Danish government is convinced that it is possible to create new EUGEAs to further facilitate exports of low risk products to low risk destinations. The Danish government therefore supports the Commission's efforts to create new EUGEAs in relation to encryption, intra-company technology transfers, intra EU transfers and large projects, as described in the communication. However, in relation to a "low value shipment EUGEA" as mentioned in the communication, the Danish government believe there is a need for further clarification of how such a general license would function.

Some member states have, as mandated by the current regulation, implemented their own national general licenses (NGEAs). These are only valid in the given member state. While these NGEAs can be a very effective tool for each member state to facilitate exports of low risk, companies operating across Europe need to manage all the various NGEA's in place in different member states. This is not desirable, since it courses significant administrative burdens for European companies.

The Commission outlines in the communication a conversion of some of the various NGEAs to EUGEAs thereby making them applicable throughout the EU. In correspondence with the goal of enhancing a European level playing field and lowering administrative burdens, the Danish government is in favor of both creating new EUGEAs and convert of some of the various NGEAs to EUGEAs.

#### Internal Compliance Procedures (ICPs)

In order to ensure an effective export control system authorities need to cooperate closely with the companies developing and selling dual-use goods.

We see standardized internal compliance procedures (ICPs) as a way to make sure that companies follow basic compliance standards. The Danish government supports working towards making common European guidelines in this area. We do not however see it as beneficial to make ICP's legally binding, since there is an eminent threat to create new unnecessary administrative burdens for European companies. It is essential to make sure that there is tight cooperation between authorities and compa-

nies in a flexible and non-bureaucratic manner, since the companies will in many cases be the first line of defense against unwanted proliferation.

#### Human Security

In the communication the European Commission argues why European export control needs to embrace a strategy for “human security” in its approach towards which goods that are subject to control. Cyber surveillance has become widespread, and there have been examples of European products being used to violate human rights in oppressive regimes.

Many of the so-called cyber surveillance tools have widespread use in anti-virus software, backbone network administration and telecommunication solutions. The IT and telecommunication sector is a strategic important sector for the EU and faces tough competition from companies situated outside of the EU.

The Danish government acknowledges that there could be a legitimate need to control different types of cyber surveillance tools. However the Danish government also finds that one of the advantages of the current export control system is that the conditions for control are settled within the four international export control regimes. This ensures that the same products are subject to control in all the countries that are part of these international regimes, including most western countries and EU member states.

The Danish government believes that the best way to introduce new product controls is within the global export control regimes instead of having certain products being subject to control only in the EU, as European companies thereby will face more far-reaching rules and uneven competition compared to their competitors outside of the EU.

#### Technological reaction capacity

The Danish government encourages the European Commission to continue its focus on strengthening the European technical expertise regarding the ongoing control list update and the evaluation of new upcoming technologies with potential military application as well as de-control of products that have become widely available commercially.

The Danish government believes it can be a great advantage for the European member states, especially for the smaller member states, to pool our resources in the technical discussions in the export control regimes and in the EU export control system. Therefore the Danish government would encourage the strengthening of the current “Pool of Experts setup” and the EU’s technical capabilities in general which are very valuable tools.

To conclude the Danish government looks forward to working together with the European Commission and the European Council to update the European export control system by enhancing the effectiveness, making it easier for companies to navigate in the system, lowering the administrative burdens, and working towards a more level playing field for the European dual-use industry.