



Discussion concerning the possible direction of evolution of the EU dual- use export control framework : introductory remarks

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Does the EU export framework has to evolve ?

- Present system **have been amended** all ready in 2000, 2009 and will be soon with the adoption of new CGEA
- Trend to **reinforce the constraints on trade transactions** implementing new international commitments adopted within the different regimes
- EU regime conceive as **non proliferation instrument and not a necessary as a trade control one**
Not trustfull business friendly compare to third countries

Elements of comparison between EU Regulation 428/2009 and US Export Control Act of 1979

- US Export control policy tight by **comparative trade competition** with third countries

Foreign availability principle Section 4(a)(4)(c)

- Decision to control an item shall be taken only after full consideration on the **impact on the US economy** Section 3 (2)
- US control list review process **consultation with industries/interested parties** (Section 5 (b) (3)) not as clear for the EUR

EU framework is essentially the coordination of National Regimes and does not constitute a EU Common Trade Control Regime

- Drafted like **guidelines** and requires that Member States achieve a particular result without dictating the means of achieving that result.

Common principles to be implemented individually by Member States

- Except that EU Regime is legally binding and include constraining elements and sui generis instruments like: : CGEA(s), EU Territorial validity for licence Consultation mechanism

Not presently politically acceptable for EU Member States to establish one Regime therefore what could be done?

To avoid the risk of undercut, to enhance common view :

- EU Regulation has essentially established legally constraining exchange of information
- Consultation result could legally binding or not

Trade authorisation decided on risk assessment based on conditions and criteria

- The Regulation has defined a **none exhaustive list** of common criteria (article 12)

Content of Article 12 didn't change since its adoption (Joint Action 94/942/CFSP1994)

- **Core of system** and remains strictly a Member States prerogative

Consider as a Foreign Policy issues falling outside of the Union competencies

Possible paths to reinforce the common understanding

- **Increasing** the number of CGEA and phasing out national general licence
- **Reviewing** common criteria and **attempt** define common conditions

By countries process has all ready started with Iran and Syria

By risks : security, crime control, anti terrorism, ... missiles

By categories of items: chemicals, nuclear