

CHAPTER I SUBJECT AND DEFINITIONS

Article 1

This Regulation sets up a Community regime for the control of exports, transfer, brokering and transit of dual-use items.

Comment:

As mentioned in Recital 4 “*the existence of a common control system and harmonised policies for enforcement and monitoring in all Member States was a prerequisite for establishing the free movement of dual-use items inside the Community*”. Nevertheless, this Regulation does not substitute for the Member States’ national trade control regimes in a centralised EU trade control framework. In fact, this Regulation establishes common trade control rules and principles to be implemented by each Member State. It consists mostly in the adoption of:

- An identical list of items to be controlled (see articles 3 and 15(1));
- A system of export authorisations for listed and non-listed items (see articles 3 and 4);
- A possibility to control the brokering activities (see Article 5);
- A possibility to control the transit of dual-use items (see Article 6);
- A transfer authorisation for movements of certain items between EU Member States (see Article 22).

This Regulation establishes the principle that an authorisation is granted:

- By the competent authority of the Member State where the exporter is established; or
- Directly by this Regulation as regards the six EU General Export Authorisations (see Article 9).

This Regulation covers **exports** of dual-use items (see Article 1(2)), but it does not concern **import** of such items. Nevertheless, Member States have the possibility to adopt, *via* their national legislation, special provisions on import of dual-use items.

It is the case of **Poland**, which requires an import authorisation for certain chemical items and requests a reporting/notification to the counter-intelligence agency of every import of cryptological items.

Finland has also dedicated provisions requiring a licence for import of:

- Nuclear materials (dual use category 0C001- 0C004);
- Nuclear waste;
- Nuclear devices and equipment (0A001, 0B001- 0B007);
- Nuclear information (software and technology, 0D001 & 0E001), if a particular safeguard obligation is binding on such nuclear information;
- Uranium and thorium ore.

The Nuclear Energy Act and Nuclear Energy Degree are available on the webpage of the Finnish Radiation and Nuclear Safety Authority (STUK).

The **transfer** of dual-use items shall be understood as a movement of items within the customs territory of the European Union. The Regulation organises the control of transfers for

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specific categories of items (see Article 22).

The control of **brokering services**, defined as any activity facilitating the trade of listed and non-listed dual-use items, between two third-countries, can also be submitted to national authorisation (see Article 5).

The control of **transit** of dual-use items can be prohibited or submitted to national authorisation (see Article 6).

The **transshipment** of dual-use items is not covered by the Regulation.