

Article 13

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1. The competent authorities of Member States, acting in accordance with this Regulation, may refuse to grant an export authorisation and may annul, suspend, modify or revoke an export authorisation which they have already granted. Where they refuse, annul, suspend, substantially limit or revoke an export authorisation or when they have determined that the intended export is not to be authorised, they shall notify the competent authorities of the other Member States and the Commission thereof and share the relevant information with them. In case the competent authorities of a Member State have suspended an export authorisation, the final assessment shall be communicated to the Member States and the Commission at the end of the period of suspension.

Comment:

As mentioned in the comment related to Article 12, due to the introduction of criteria, the fulfilment of conditions required in an application form does not grant an applicant the right to obtain an authorisation. Moreover, when an authorisation has been granted and until the items leave the territory of the EU, Member States' licencing authorities can always revoke a licence they have granted.

2. The competent authorities of Member States shall review denials of authorisations notified under paragraph 1 within three years of their notification and revoke them, amend them or renew them. The competent authorities of the Member States will notify the results of the review to the competent authorities of the other Member States and the Commission as soon as possible. Denials which are not revoked shall remain valid.

3. The competent authorities of the Member States shall notify the Member States and the Commission of their decisions to prohibit a transit of dual-use items listed in Annex I taken under Article 6 without delay. These notifications will contain all relevant information including the classification of the item, its technical parameters, the country of destination and the end user.

4. Paragraphs 1 and 2 shall also apply to authorisations for brokering services.

5. Before the competent authorities of a Member State, acting under this Regulation, grant an authorisation for export or brokering services or decide on a transit they shall examine all valid denials or decisions to prohibit a transit of dual-use items listed in Annex I taken under this Regulation to ascertain whether an authorisation or a transit has been denied by the competent authorities of another Member State or States for an essentially identical transaction (meaning an item with essentially identical parameters or technical characteristics to the same end user or consignee.) They shall first consult the competent authorities of the Member State or States which issued such denial(s) or decisions to prohibit the transit as provided for in paragraphs 1 and 3. If following such consultation, the competent authorities of the Member State decide to grant an authorisation or allow the transit, they shall notify the competent authorities of the other Member States and the Commission, providing all relevant information to explain the decision.

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Comment:

The term “**authorisation or a transit has been denied**” covers denials issued for authorisations related to either items listed in Annex I or items not listed if a Member State has implemented Articles 4(7), 5(2) and (3) or 6(3) of this Regulation. Nevertheless, an obligation to consult other Member States concerns only listed items. As regards non-listed items, a consultation will be required only if a Member State has issued a similar catch-all clause and submitted to authorisation a similar transaction. This might lead to some difficulties with respect to certain transit transactions as far as Member States are not constrained to notify their decisions to prohibit a transit of non-listed items.

Due to the fact that the EU no-undercut mechanism is initiated **only** if an export authorisation has been previously denied, it is essential that exporters do not refrain themselves in applying for an authorisation even if they know that an authorisation will be denied.

6. All notifications required pursuant to this Article shall be made via secure electronic means including the system referred to in Article 19(4).

7. All information shared in accordance with the provisions of this Article shall be in compliance with the provisions of Article 19(3), (4) and (6) concerning the confidentiality of such information.