

Article 25a

Without prejudice to the provisions on mutual administrative assistance agreements or protocols in customs matters concluded between the Union and third countries, the Council may authorise the Commission to negotiate with third countries agreements providing for the mutual recognition of export controls of dual-use items covered by this Regulation and in particular to eliminate authorisation requirements for re-exports within the territory of the Union. These negotiations shall be conducted in accordance with the procedures established in Article 207(3) of the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community, as appropriate.

Comment:

This new provision that stems from the initial Commission recast proposal (Doc COM(2006) 829 final December 2006 (Article 22)) has been (re)inserted under the impetus of the European Parliament. Nevertheless, it is not clear yet how it might be implemented. A parallel would be drawn with the nuclear trade sector, where different bilateral agreements were signed by the EU with Canada, Japan, the United States of America, Kazakhstan and South Africa, on one hand, to facilitate the transfers of nuclear materials and, on the other hand, to reinforce an efficient application of safeguards and export controls.

Such agreements are published in the *Official Journal of the European Union*.¹¹⁴

Complementary information:

Article 207 (3) of the Treaty on the Functioning of the European Union:

“3. Where agreements with one or more third countries or international organisations need to be negotiated and concluded, Article 218 shall apply, subject to the special provisions of this Article.

The Commission shall make recommendations to the Council, which shall authorise it to open the necessary negotiations. The Council and the Commission shall be responsible for ensuring that the agreements negotiated are compatible with internal Union policies and rules.

The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it. The Commission shall report regularly to the special committee and to the European Parliament on the progress of negotiations”.

¹¹⁴ See for instance Agreement between the Government of Japan and the European Atomic Energy Community for co-operation in the peaceful uses of nuclear energy (OJ L 32, 6/02/2007, p. 65).