

## Article 15

### Article 15 Authorisation requirement for certain services

1. An authorisation shall be required for any supply, by a supplier of technical assistance or a broker, respectively, of one of the following services to any person, entity or body in a third country, whether for consideration or not:

- (a) technical assistance related to goods listed in Annex III, irrespective of the origin of such goods; and
- (b) brokering services related to goods listed in Annex III, irrespective of the origin of such goods.

2. When deciding on applications for an authorisation for the supply of brokering services concerning goods listed in Annex III, Article 12 shall apply mutatis mutandis.

When deciding on applications for an authorisation for the supply of technical assistance related to goods listed in Annex III, the criteria set out in Article 12 shall be taken into account to assess:

- (a) whether the technical assistance would be supplied to a person, entity or body that might use the goods to which the technical assistance relates for torture or other cruel, inhuman or degrading treatment or punishment; and
- (b) whether the technical assistance would be used to repair, develop, manufacture, test, maintain or assemble goods listed in Annex III for, or supply technical assistance to, a person, entity or body that might use the goods to which the technical assistance relates for torture or other cruel, inhuman or degrading treatment or punishment.

**Comment:**

Criteria defined by article 12 are:

- Denials of another Member State for an essentially identical transaction;
- Grounds to believe that goods listed in Annex III might be used for torture;
- Available international court judgements;
- Findings of the competent bodies of the UN, the Council of Europe and the other international and regional organisations;
- Other relevant information, including available national court judgements, reports or other information prepared by civil society organisations and information on restrictions on exports.

3. Paragraph 1 shall not apply to the supply of technical assistance, if

- (a) the technical assistance is supplied to a law enforcement authority of a Member State or to military or civil personnel of a Member State as described in the first sentence of Article 11(3);
- (b) the technical assistance consists of providing information that is in the public domain;

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**Comment:**

- **“In the public domain”** should be understood as information, which has been made available without restrictions upon its further dissemination (copyright restrictions do not remove information from being in the public domain).

or

(c) the technical assistance is the minimum necessary for the installation, operation, maintenance or repair of those goods listed in Annex III whose export has been authorised by a competent authority in accordance with this Regulation.

4. Notwithstanding paragraph 1, a Member State may maintain a prohibition on the supply of brokering services related to leg irons, gang chains and portable electric shock devices. Where a Member State maintains such a prohibition, it shall inform the Commission if measures previously adopted and notified in accordance with Article 7a(4) of Regulation (EC) No 1236/2005 are amended or repealed.