

Technical Note on proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (Brussels, 14.1.2014 COM(2014) 1 final 2014/0005 (COD)).

The amendments would broaden the scope of application of Regulation (EC) No 1236/2005 by extending the definition of “torture” and “ other cruel, inhuman or degrading treatment or punishment” and by introducing the control of brokering services, and of the supply of technical assistance of related goods. Different types of authorisations, as well as conditions and criteria to grant them have also been proposed.

More specifically:

- The control of brokering services and the supply of technical assistance have been added.
- The list of terms defined by article 2 has been completed accordingly: customs territory, brokering services (excluding ancillary services), broker, supplier of technical assistance, exporter, Union General Export Authorisation, individual export authorisation, global export authorisation and distributor.
- Article 4a is inserted for the prohibition of brokering services in relation to goods listed in Annex II.
- Article 5(1) is replaced to precise the scope of Annex III (list of goods submit to authorisation).
- Article 6(1) is replaced as to introduce considerations about intended end-use and the risk of diversion as criteria to be considered by competent authorities when deciding on applications for authorisations.
- Article 7(a) is inserted prohibiting certain services concerning brokers and suppliers of technical assistance.
- Chapter IIIa *Goods that could be used for the purpose of capital punishment* is inserted after article 7(a) to specify export control authorisation requirement, and criteria to be considered by competent authorities when deciding on applications for authorisations.
- Article 8 is replaced as to introduce different types of authorisations:
 - Union General Export Authorisation for certain exports as set out in Annex IIIb;
 - Global or individual authorisations for goods listed in Annex III or in Annex IIIa and their issuing authorities;
 - Individual authorisation for goods listed in Annex II;
 - Individual authorisation for imports of goods listed in Annex II
 - An authorisation for the supply of technical assistance related to goods listed in Annex II.
- A paragraph to article 11 is added to establish an exchange of information between customs authorities via a secure and encrypted system.
- Article 12 is replaced so to allow the Commission to adopt delegated acts to amend Annex I, II, III, IIIa, IIIb, IV and V according to the procedure established by the newly inserted articles 15a (exercise of delegation) and 15b establishing an urgency procedure to amend Annex II, III or IIIa.
- Article 12a is added establishing the procedure for Member States to request the adding of goods to one of the lists.

- Article 15 is deleted.
- Annexes are amended as follows:
 - In Annex III, section 4 is deleted ;
 - A new Annex IIIa *Goods that could be used for the purpose of capital punishment referred to in Article 7b* is added.
 - A new Annex IIIb *Union General Export Authorisation No EU ...* is added.