OPINION of the Committee on Foreign Affairs for the Committee on International Trade on the 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 (COM(2014)0001 – C7-0014/2014 – 2014/0005(COD))

The Opinion of the Committee on Foreign Affairs seeks to strengthen the provisions on the ancillary services linked to the transfer of goods, as well as on transit, technical assistance and commercial marketing. It also aims to introduce a targetted end-use clause in order for Member States to prohibit or suspend the transfer of security-related items not listed in Annex II and III\(^1\) that clearly have no other practical use other than the purpose of capital punishment, torture or other ill-treatment, or there are reasonable grounds to believe that the transfer of those items would lead to the facilitation or the commission of judicial execution, torture or other ill-treatment.

It also proposes the establishment of an Equipment Coordination Group and the introduction of a periodical review mechanism and more systematic information-sharing and reporting in order to strengthen the oversight and efficient implementation of the Regulation.

More specifically:

- Recital 19a is added in order to introduce a targeted end-use clause aimed at suspending or halting the transfer of security-related items not listed in Annex II and III.
- The definition of technical assistance, supplier of technical assistance, broker and brokering activities (with the inclusion of ancillary services) are strengthened;
- Point r a in Article 2 is added in the interest of introducing the definition of “transit”.
- Prohibition of transit for goods listed in Annex II that only pass through the custom territory of the Union;
- Article 4a is added prohibiting commercial marketing and promotion (and the related ancillary services) for the purpose of transfer of products listed in Annex II;
- A transit authorisation is required for goods listed in Annex III which only pass through the EU custom territory;
- In Article 7a, a paragraph 1a is inserted with a view to specify that Member States shall conduct appropriate promulgation activities to ensure that all actors involved
- Article 7aa is added prohibiting or suspending the transfer of security-related item not listed in Annexes II and III that clearly has no practical use other than for the purpose of capital punishment, torture or other ill-treatment, or when there are reasonable grounds to believe that the transfer of this item would lead to the facilitation of the commission of judicial execution, torture or other ill-treatment (targeted end-use clause);
- A transit authorisation is required for goods listed in Annex IIIa which only pass through the customs territory of the Union;
- The Commission shall be informed by Member States also in case of adoption of a

\(^1\) In Annex II are listed goods that have no practical use other than for the purposes of capital punishment, torture and other cruel, inhuman or degrading treatment or punishment, the import and export of which are prohibited. While, in Annex III are listed goods that could potentially be used for the purpose of torture or other cruel, inhuman or degrading treatment or punishment, the export of which requires an authorisation.
targeted end-use clause;
- Article 15 is replaced as to establish a Coordination Group (Art. 15a) and a periodical review mechanism (a review every three years by the Commission and report to the EP and the Council - Art. 15c)
- Paragraphs 2.2a, 2.2b, and 2.2c shall be inserted to Annex II in order to add to this latter direct contact of electronic shock batons, stun guns and stun shields, prisoner hoods intended for law enforcement purposes, and prisoner control pliers.
- Other items are added to Annex III;
- Paragraph II of Annex III is also modified as to strengthen the definition of some items.

Comparison between the Commission’s proposal and the EP’s proposal

The proposal of the EP, compared to the proposal of the Commission is more comprehensive from several points of view. Below, it is provided a matrix of these points in order to facilitate the understanding.

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<td><strong>Definition of brokering services</strong></td>
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| **Provisions proposals** | | To include provisions:
| | ➢ the prohibition of transit for goods listed in Annex II through the EU custom territory;
| | ➢ the prohibition of commercial marketing and promotion for the purpose of transfer of products listed in Annex II;
| | ➢ the introduction of a targeted end-use clause, allowing the prohibition or suspension of security-related goods not listed in Annexes II and III (a catch-all clause); |
| **Information sharing and information access** | It does not contain a provision for the information to be accessible\(^3\) to any relevant independent oversight body\(^4\). | It increases transparency by making information accessible upon request, to a relevant independent oversight body. |
| **Transparency and efficiency** | The review mechanism only initiates if the chairman (either on his or her own initiative or at the request of a representative of a Member State) asks the Commission to examine a specific question, therefore, there is not an obligation of review and report. | To establish:  
- a structured review and report mechanism that « obliges » the Commission to review, every three years, the implementation of the Regulation and to report to the EP and the Council;  
- Coordination Group (in order to assist the implementation of the Regulation) |
| **Amendments to the annexes** | It adds some items, making the annexes more comprehensive\(^5\). |

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\(^2\) As added in the proposal: *a supplier of technical assistance shall also be prohibited from giving instruction, advice, training, or transmitting working knowledge or skills that could aid the Commission of judicial executions.*  

\(^3\) In the case of medicinal products that are to be exported by a manufacturer to a distributor, the manufacturer shall provide information on the arrangements made and the measures taken to prevent these products from being used for capital punishment, on the country of destination and information on the end-use and the end-users.  

\(^4\) Such as a National Preventive Mechanism established under the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, or a national human rights institution in a Member State.  

\(^5\) The following items shall be inserted to Annex II: direct contact electric shock batons, stun guns and stun shields, prisoner hoods intended for law enforcement purposes, and prisoner control pliers. While, the items to be inserted to Annex III are: chairs, boards and beds fitted with straps; acoustic devices for the purpose of crowd/riot control; millimetre wave weapons.