

## **X EDITION OF THE CHAUDFONTAINE GROUP**

*The identification of gaps between formal definitions and their scope of application  
in Council Regulation (EC) No. 428/2009*

### **1. INTRODUCTION**

National authorities and international actors involved in export controls are currently facing new security challenges, represented more specifically by emerging technologies (e.g. clouds, facial recognition systems, cyber-surveillance) and the necessity to find a balance between security and the respect of human rights. While new international security challenges would require a review and update of legal definitions, the EU Dual-Use Regulation seems not to properly respond to such new threats.

On 28 September 2016, the European Commission presented a new proposal for Council Regulation (EC) No. 428/2009: *Proposal for a Regulation of the European Parliament and of the Council setting up a Union regime for the control of exports, transfer, brokering, technical assistance and transit of dual-use items (recast)*, (Brussels, 28.9.2016 COM(2016) 616 final).<sup>1</sup> The new Regulation would strengthen the existing EU dual-use trade control regime, by broadening the “human security” dimension, in order to prevent human rights violations due to certain cyber-surveillance technologies. In January 2018, the Parliament published its report on the text delivered by the Commission, agreeing on most of the changes therein proposed, including on cyber-surveillance technology and on human rights. It additionally proposed some new amendments, mainly to strengthen the protection of the right to privacy, data and the freedom of assembly, by adding clear-cut criteria and definitions to the Regulation. The Parliament’s report also called for the inclusion of new risks and technologies in the Regulation. In June 2019, the Council’s position was published, rejecting several elements proposed by the Commission, such as the definition of cyber-surveillance technology, the principle of an autonomous list to control such technology and explicit references to human rights. On 21 October 2019, the European Commission, Parliament and Council initiated the trilogue<sup>2</sup> with the objective to find a consensus on a final draft.

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<sup>1</sup>The text of the Commission’s proposal is available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016PC0616>.

<sup>2</sup>More information on Tripartite Meetings (Trilogues) is available on the European Parliament’s website, at <https://www.europarl.europa.eu/ordinary-legislative-procedure/en/interinstitutional-negotiations.html>.

Discussions are expected to focus mainly on cyber-surveillance technology, information sharing and the role of human rights. An agreement on the final text of the proposed recast is, in principle expected to be reached within 2020, if parties succeed to overcome their main differences<sup>3</sup>.

In light of the necessity to update the EU Dual-Use Regulation, and with the intention to contribute to the debate inaugurated by the trilogue process, from 26 to 28 January 2020 the Chaudfontaine Group gathered to discuss the gaps existing between formal definitions and their scope of application in Council Regulation (EC) No. 428/2009<sup>4</sup>, aiming to find an agreement on new potentially improved definitions. The group was composed of academics, public authorities and experts from research centres<sup>5</sup>.

This report will present the main outcomes of the working sessions of the Chaudfontaine Group, following the order of discussions and analysing one-by-one the elements proposed for the new definitions, also explaining how and why they were agreed upon. The attention of the Group was mainly focused on the concepts of “**Dual-Use Items**”, to which the first paragraph of this report will be dedicated, and “**Export**” and “**Exporter**”, on which the second paragraph will focus.

## 2. “DUAL-USE ITEMS”

### 2.1. TRANSFERS OF INTANGIBLE TECHNOLOGIES: THE EU COMMISSION’S TIM PROJECT

With regard to “dual-use items”, it is important to keep in mind that many of the current security threats are posed by the transfers of intangible technologies, which do not require the physical crossing of a border and are thus not subject to concrete border controls.

For this reason, the Chaudfontaine Group started its working sessions with the presentation of the TIM Project<sup>6</sup>, a tool developed by the Joint Research Centre of the European Commission, based in Ispra, to monitor and map the transfers of dual-use intangible and emerging technologies. The discussion on the TIM Project was useful for the Group to understand or better clarify what

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<sup>3</sup>To follow the most recent updates, it is recommended to visit the European Parliament Legislative Observatory’s website, at [https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2016/0295\(COD\)](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2016/0295(COD)).

<sup>4</sup>For more information about Council Regulation (EC) 428/2009, the *Vademecum of the European Union Dual-Use Items Control Regime: Comment of the Legislation article-by-article* can be consulted on the website of the European Studies Unit (University of Liege), at [http://www.esu.ulg.ac.be/49/pdf/euduicr/euduicr\\_full.pdf](http://www.esu.ulg.ac.be/49/pdf/euduicr/euduicr_full.pdf).

<sup>5</sup>Also industry was invited, but could not attend.

<sup>6</sup>TIM Technology, Tools for Innovation Monitoring, *Joint Research Centre of the European Commission*, available at <https://www.timanalytics.eu/website/>.

transfers of intangible technologies are, what their entity is and which kind of challenges and/or threats they pose.

As defined in Annex I to Council Regulation (EC) No. 428/2009, intangible technology consists in the «specific information necessary for the development, production, or use of goods»<sup>7</sup>. While tangible technology refers to technical data, such as diagrams and plans, intangible technology generally means knowledge and technical assistance. However, these definitions are ambiguous and no consensus exists on their meaning. Consequently, the control of intangible technology is problematic for national authorities and all the other actors involved in their transfers, such as universities, private companies and research institutes.

TIM is a data-mining tool based on open source data able to map and monitor dual-use intangible technology transfers, for instance through scientific publications or patents, within the TIM area. Since technology transfers could also occur through news, social media, or in occasion of special events (e-g- fairs), the JRC is working on the inclusion of these additional sources to the TIM database. TIM is a complementary policy instrument. It can define cooperation networks between countries and organisations, track the activities of a specific organisation or even a person, provide statistics and clear and direct data visualization over time, and monitor emerging technologies (technological development and trends). Thanks to these characteristics and its risk-based approach, TIM could represent a useful instrument for prevention and better targeting of the beneficiary groups of outreach programmes.

Since TIM could be a useful tool for the research community's compliance with dual-use controls requirements, it has been proposed to test its efficiency in a pilot project at the University of Liege. The project will consist in mapping the potentially sensitive research activities of the University in order to detect those with proliferation concerns and provide a risk-based targeting for any eventual awareness-raising activity among the academic community in view of improving University's compliance with export control requirements.

In discussing the Tim Project and intangible technologies, the attention of the Chaudfontaine Group was particularly caught by the necessity to control scientific publications and the inherent difficulties that such controls will initiate. The experts agreed on the fact that the legal entities responsible for technology transfers through scientific publications are not the researchers

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<sup>7</sup>Council Regulation (EC) No. 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29.5.2009), available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32009R0428>.

themselves, but their organizations. In case of University publications, for instance, the Rector or the relevant authorized representative would hold the final responsibility for the transfers of technology done by University Professors and their researchers. The experts also convened that, compared to bilateral agreements and exchanges between Universities and Research Institutes, scientific publications represent a marginal issue and it is unclear how the control could be organized. E.g. the editing scientific process requires to send the draft of a publication to potential editors who will send it to academics for peer-reviewing. In this case, the document has potentially been already exported twice and therefore might require two export authorisations.

In light of these considerations, using TIM at University could help to identify researchers that could be concerned by dual-use technology transfers, since they are not always aware of this eventuality.

## 2.2. IMPROVING THE DEFINITION OF “DUAL-USE ITEMS”

The analysis of Council Regulation (EC) No. 428/2009 conducted by the Chaudfontaine Group started with art. 2. Experts focused on how to improve the definition of “dual-use items” and better clarify the meaning of “civil and military purposes”. The next paragraph will concentrate on “civil and military purposes”.

All the modifications to the current Regulation proposed by the working Group will be highlighted in red.

According to Art. 2.1 of Council Regulation (EC) No. 428/2009,

*«“Dual-use items” shall mean items, including software and technology, which can be used for both civil and military purposes, and shall include all goods which can be used for both non-explosive uses and assisting in any way in the manufacture of nuclear weapons or other nuclear explosive devices».*<sup>8</sup>

During the debate on how to improve the present definition of “dual-use items”, several issues were raised with regard to the words underlined: (i) the juxtaposition between the terms “dual use

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<sup>8</sup>Council Regulation (EC) No. 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29.5.2009), available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32009R0428>.

items” and “dual use goods”, occurring several times in the subsequent articles of the Regulation; (ii) the necessity to simplify the current definition of “dual-use items”; (iii) the fact that the current definition only makes explicit reference to nuclear weapons and their manufacture; (iv) human rights considerations and the necessity of an EU autonomous list of dual-use items.

As anticipated in the previous paragraph, the presentation of the TIM Project had already convinced the Chaudfontaine experts of the necessity to include the reference to «intangible» technology in the definition of “dual-use items” before substantive discussions started.

(i) The juxtaposition between the terms “dual-use items” and “dual-use goods”

The definition of “dual-use items” does not match its scope of application. Since such items are at the basis of the entire EU Dual-Use Regulation, great attention was focused on it by the Chaudfontaine Group.

The first issue underlined during the discussions was that, while art. 2.1 mentions “dual-use items”, subsequent articles refer to “dual-use goods”. As a consequence, the coherence and clarity of the Regulation seems to be undermined. In addition to this, the definition currently contained in art. 2.1 provides that «Dual-use items shall mean items...which». Such repetition of terms creates confusion and does not represent the best description that could be reached.

In analysing the difference between “items” and “goods”, the experts agreed on considering “goods” as a subcategory of the more general terms “dual-use items”. In this way, the confusion between different expressions along the EU Dual-Use Regulation was eliminated and the definition of “dual-use items” was made clearer and avoided repetitions. Looking at formal definitions, an “item” is described as «something that is part of a list or group of things»<sup>9</sup>, while “goods” are «articles of trade, possessions»<sup>10</sup>. Therefore, to a more general and abstract meaning of “items” corresponds a more specific and concrete connotation of “goods”.

The explicit inclusion of software and technology within the definition of “dual-use items” was judged as positive by the Chaudfontaine Group.

In light of the discussions reported above, according to the experts, «“dual-use items” shall mean goods, software and technology».

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<sup>9</sup> “Item”, Cambridge Dictionary, available at <https://dictionary.cambridge.org/dictionary/english/item>.

<sup>10</sup> “Good”, WordReference, available at <https://www.wordreference.com/definition/good>.

### (ii) Simplifying the current definition of dual-use items

The working group agreed on considering the definition contained in art. 2.1 as too long and rather confusing. For this reason, all the experts approved the elimination of the second part of the definition, which currently refers to ~~«all goods which can be used for both non-explosive uses and assisting...»~~. After deleting these words, it was deemed necessary to add an explicit reference to **«Annex I»** in art. 2.1. In this way, we could have a shorter definition which, however, will not hamper its exhaustiveness. Moreover, while Annexes usually represent something additional, Annex I constitutes the basis and the heart of Council Regulation (EC) No. 428/2009. For this reason, a reference to such annex at the beginning of the legal text was more than welcomed.

### (iii) The reference to nuclear weapons and their manufacture

Until getting to the catch-all clauses, the sole weapons of mass destruction mentioned in the EU Dual-Use Regulation are nuclear weapons and other nuclear explosive devices and the only process referred to is their manufacture.

The Chaudfontaine Group agreed on the consideration that proving the purposes for which dual-use items are going to be used is definitely challenging for companies and exporters. For this reason, the exclusive reference to nuclear devices in art. 2.1 seems too limited, especially if considering that in art. 4 dual-use items are referred to as items which «are or may be intended, in their entirety or in part, for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons»<sup>11</sup>.

For this reason, the experts all agreed on the necessity to adopt higher specificity with regard to the potential role of dual-use items in art. 2.1. Consequently, they proposed to add to the definition of such items the specification that they **«are or may be used in connection with nuclear, chemical and biological weapons and their means of delivery»**. Moreover, such terminology matches the one adopted by the UNSCR1540<sup>12</sup>.

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<sup>11</sup>Council Regulation (EC) No. 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29.5.2009), available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32009R0428>.

<sup>12</sup>UN Security Council Resolution 1540 (2004), available at <https://www.un.org/disarmament/wmd/sc1540/>.

(iv) Human rights considerations and the necessity of an EU autonomous list of dual-use items

An additional issue discussed at Chaudfontaine was the possibility to add a reference to human rights considerations to the definition of dual-use items. Related with this point was the debate on the necessity to have an EU autonomous list of dual-use items, whose export would be subject to specific authorizations taking also into account human rights considerations. It would be additional to the present list contained in Annex I, which is currently determined by agreements reached at the Wassenaar Arrangement and Missile Technology Control Regime.

Articles 4 to 8 of Council Regulation (EC) No. 428/2009 establish several catch-all clauses related to export, brokering or transit. However, when considering how EU Member States implement catch-all clauses, great differences can be noticed. Some countries require exceptional authorizations and, even among them, significant dissimilarities exist. For instance, Germany, France, Latvia and the Netherlands apply systematic controls to the export of specific items, for reasons of public security or human rights considerations. In Bulgaria, Czech Republic, Estonia, Ireland, Cyprus, Luxembourg, the Netherlands, Austria and Romania, ad hoc controls may be required. Belgium, Denmark, Greece, Spain, Croatia, Italy, Lithuania, Hungary, Malta, Poland, Portugal, Slovenia, Slovakia, Finland and Sweden do not have additional controls been implemented concerning non-listed goods in relation with catch-all clauses.

In light of these observations, the Chaudfontaine experts agreed in principle on the necessity of an EU autonomous list of items subject to export controls for human rights considerations. However, the possibility to include human rights considerations in the definition of “dual-use items” was excluded, although highly debated. The reason was mainly that human rights are not a mechanism to identify items, but rather an element that must be considered among the criteria taken into consideration by national authorities when granting a licence.

### 2.3. CLARIFYING THE MEANING OF “CIVIL AND MILITARY PURPOSES”

*«“Dual-use items” shall mean items, including software and technology, which can be used for both civil and military purposes, and shall include all goods which can be used for both non-explosive uses and assisting in any way in the manufacture of nuclear weapons or other nuclear explosive devices».*<sup>13</sup>

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<sup>13</sup>Council Regulation (EC) No. 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29.5.2009), available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32009R0428>.

The words underlined above express the purposes for which dual-use items could be used. Making reference to such purposes is fundamental, since they catch the essence of dual-use items, together with the technical peculiarities. Specifying the purposes also allows to include in the definition of dual-use items future developments and functions which have not been discovered yet.

The Chaudfontaine Group discussed (i)the necessity to clarify the meaning of “civil and military purposes” and (ii)the possibility to elaborate a definition of “military end-user” to avoid ambiguity on the purposes for which dual-use items could be exported.

(i)The meaning of “civil and military purposes”

The dichotomy “civil/military” is rather limiting, since it excludes all the items which can be used for non-peaceful purposes but are not military. On the one hand, looking at the most recent technological advancements and developments in armed conflicts, the definition of “military” does not fit anymore the non-peaceful uses of dual-use items made by non-state actors. On the other hand, not all civil purposes are necessarily peaceful.

A first proposal raised by the experts was to substitute “civil and military” with “peaceful and non-peaceful” purposes. In this way, the human security element would have been taken into consideration, alongside human rights considerations, even if not explicitly mentioned.

However, the idea was left aside for several reasons.

Firstly, clearly differentiating between peaceful and non-peaceful is difficult, since they can be subjective terms. If we consider peace-keeping operations, for instance, and the use of military force that characterizes them, we can get a clear idea of this difficulty.

Secondly, since the aim of the working session was to narrow down and specify the meaning of “civil and military purposes”, the inclusion in art. 2.1 of another dichotomy did not seem to be the best solution. The experts therefore agreed on adding some further specifications rather than substituting the words with other two terms.

Thirdly, the experts tried to define and concentrate on the meaning of military, to understand what needed to be added to the definition. The “military” concept is the essence of the Regulation,

which was created to prevent the proliferation of weapons of mass-destruction, and, consequently, it should always be mentioned among the purposes of “dual-use items”.

(ii) “Military end-user”

In discussing the meaning of “military”, the experts considered the possibility to additionally elaborate a definition of “military end-user”.

Since export control is an event-driven, political and multilateral process, it should take into consideration many new current developments. For instance, new technologies are not listed in Annex I and, as a consequence, their export is not controlled. This is the case mainly because such technologies do not fall within the scope of civil or military end-uses. Consequently, the term “military” could result as outdated and its role in the EU Dual-Use Regulation should be rethought. The concept of military risk is not static and it should take into consideration, for instance, modern hybrid threats. Looking at the US legislation, the problem is resolved through the differentiation between “military” and “military end-user”. However, adopting such a point of view would not address the main difficulties posed by the dichotomy “civil/military”.

Keeping in mind that their goal was to modernize the export control legislation and to respond to new technological developments, the Chaudfontaine participants agreed on expanding the concept of “military” through the expression «**military and hybrid capabilities**».

This new wording contemplates the possibility that non-state actors make use of dual-use items and that such items are used in connection with both conventional and non-conventional weapons. As a matter of fact, hybrid threats, as defined by the Council of the European Union, «refer to a wide range of methods or activities used by hostile state or non-state actors in a coordinated manner in order to target the vulnerabilities of democratic states and institutions, while remaining below the threshold of formally declared warfare. Some examples include cyber attacks, election interference and disinformation campaigns, including on social media»<sup>14</sup>.

#### 2.4. NEW PROPOSED DEFINITION OF “DUAL-USE ITEMS”

On the basis of the common opinions reached at Chaudfontaine and presented in the previous paragraphs, a new definition of “dual-use items” was drafted (new wording in red):

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<sup>14</sup>The definition of hybrid threats can be found on the website of the Council of the EU, at <https://www.consilium.europa.eu/en/press/press-releases/2019/12/10/countering-hybrid-threats-council-calls-for-enhanced-common-action/>.

*“Dual-use items’ shall mean goods, software and technology which can be used for both civil and military purposes, as covered by the provisions of this Regulation and its Annex I. Such items both tangible and intangible, are or may be used in connection with nuclear, chemical and biological weapons and their means of delivery, or with military and hybrid capabilities».*

### 3. “EXPORT” AND “EXPORTER”

#### 3.1. IMPROVING DEFINITIONS: “EXPORT”

In art. 2.3 of Council Regulation (EC) 428/2009, “export” is defined as

*«Transmission to a destination of software or technology by electronic media, including by fax, telephone, electronic mail or any other electronic means to a destination outside the European Community; it includes making available in an electronic form such as software and technology to legal and natural persons and partnerships outside the Community. Export also applies to oral transmission of technology when the technology is described over the telephone»<sup>15</sup>.*

With regard to this article, the discussion of the Chaudfontaine Group focused on: (i)the wording and length of the definition of “export”; (ii)the concept of “transmission” and what it may or may not include; (iii)the necessity to control clouds.

#### (i)Wording and length of the definition

With regard to the wording, the Chaudfontaine experts all agreed on the opinion that the definition of “export” could be clearer and shorter. In particular, the second part of art. 2.3 looked to the working group as not very useful. It was therefore considered whether such part is a specification of the first part or if, on the contrary, it adds some new information. The experts all agreed on considering the last two sentences of the current definition as already covered by the previous ones, and thus on the possibility to eliminate them.

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<sup>15</sup>Council Regulation (EC) No. 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29.5.2009), available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32009R0428>.

(ii) The concept of “transmission”

With regard to the meaning of “transmission” and the specific processes and actors that it should cover, there was no general consensus among the experts, since they did not share the same understanding of the word.

The most controversial issue was the geographical destination of exports, which is not mentioned in the current art. 2.3. Is such destination relevant, or does it just need to be outside the EU? In addition to this, “making available” indicates a passive transmission, such as in the case of providing technical assistance. According to the current wording of the Regulation, the destination of technical assistance is not important, what really matters is its transmission, wherever it takes place. Should a reference to the geographical destination be added?

Moreover, if to be subject to art 2.3 a transfer just needs to be directed outside the EU, what is a transmission then? Does it cover the case in which a person, located outside the EU, reads a document? Or does this person need to download it to fall under the EU Regulation’s provisions?

The definition of “export” as it stands now does not concentrate on the end-user, but just on the process of transferring items. Therefore, it is not clear to which specific cases and persons the EU Regulation should apply. Presently, it is only the “export” of dual-use items to trigger an authorization, so great relevance is acquired by the movement of items, not the person behind it. Since a transmission can be considered as a movement from point A to point B, from the text of the EU Dual-Use Regulation we can deduce that the person provoking such movement is not important. However, the experts all agreed on the necessity to focus more attention also on the persons at the base of the transmission.

Another important issue discussed at this point of the working session was whether the current art. 2.3 also applies to transfers operated by a person to him/herself. Does the transmission require the presence of two persons or just two different geographical locations? If, for instance, an individual went on holidays outside the EU and desired to continue working on his/her documents, it looks as the current wording of art. 2.3 would apply to him/her. But if the same person decided to download something, would he/her operate an export whose end-user would be him/herself? The EU legal text is not clear with this regard.

Connected with this matter was the debate on the legal entities responsible for a transmission. There was consensus among the experts on the fact that “a natural legal person” could be anybody, and should be therefore further specified, and that the term “partnership” is not well defined.

### (iii) The necessity to control clouds

In case the transfers of dual-use items operated by a person to him/herself should be excluded from the current (or a new) definition of export, a dedicated provision for clouds would be then needed.

Presently, “export” only refers to the process of uploading, not downloading, to a cloud and the authorization depends on the geographical location of the same cloud. But what about cyber security? And, regarding the administrators of a server, do they operate an export? Since the person who initially creates a cloud cannot know which materials will be put into it, the real problem is represented by the people who have access to it. Great attention will need to be focused, with relation to this issue, on the legal entity responsible for the cloud (usually, the company which created it) and the subjects having access to it. New encrypted clouds are coming out in the near future, so they will also need to be taken into account.

### 3.2. “EXPORTER”

Common criteria about who should apply for export licences are needed among EU countries, especially with regard to transfers of intangible technologies. If a person is part of a legal entity (such as a University), that entity is responsible for any transfer operated by that person. However, the individual is personally liable as well, since his/her intentionality should be assessed in case there are export controls-related problems.

### 3.3. FINAL CONSIDERATIONS

To sum up, although a clear understanding of “export” was not shared by the Chaudfontaine Group and a new potentially improved art. 2.3 has not been drafted yet, the experts all agreed on the following points:

1. The wording of the definition of “export” could be clearer and shorter, mainly eliminating the second part;
2. The definition as it stand now does not concentrate on the end-user, just on the process of transfer, creating thus confusion;

3. Connected to the previous point, the issue of transfers operated by a person to him/herself is not clear: it needs to be somehow controlled, but no agreement was reached at Choufontaine on how to do that;
4. The meaning of “partnership” and its role in art. 2.3 are not clear;
5. Clouds should be considered as an export, but a separated provision should be dedicated to them, to specify in detail which specific cloud transactions should be covered and which should not.

#### 4. CONCLUSION

As clearly demonstrated by the 2020 Choufontaine Group, many definitions contained in Council Regulation (EC) 428/2009 do not necessarily match their scope of application. This is mainly due to the recent emergence of new technologies and the subsequent necessity to control intangible transfers, which are not covered by the EU legislation.

The 2020 Choufontaine Group focused on detecting gaps in the present Council Regulation (EC) 428/2009 and in discussing how to best improve the legal text, being also able to elaborate a new potential definition of “dual-use items”.

For this reason, a new working session of the same experts will be organized to focus on other definitions, such as “Public Domain” and “Fundamental Research”, and to conclude the discussions on “export” and “exporter”.