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NOTE

From: General Secretariat of the Council
To: Working Party on Dual Use Goods

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Subject: 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)
- Opinion of the Consultative Working Party of Legal Services

Delegations will find attached the opinion of the Consultative Working Party of Legal Services regarding the above mentioned subject.



GROUPE CONSULTATIF
DES SERVICES JURIDIQUES

Brussels, 25 JAN. 2017

OPINION

FOR THE ATTENTION OF THE EUROPEAN PARLIAMENT
THE COUNCIL
THE COMMISSION

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)

COM(2016) 616 final of 28.9.2016 - 2016/0295 (COD)

Having regard to the Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, and in particular to point 9 thereof, the Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission met on 20 October and 1 and 7 December 2016 for the purpose of examining, among others, the aforementioned proposal submitted by the Commission.

At those meetings¹, an examination of the proposal for a Regulation of the European Parliament and of the Council recasting 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 resulted in the Consultative Working Party's establishing, by common accord, that the following should have been marked with the grey-shaded type generally used for identifying substantive changes:

- in Article 6(1), the proposed deletion of the words '*the transit occurs*';
- in Article 20(1), second subparagraph, the proposed replacement of the words '*list of those authorities*' with the word '*information*';
- the proposed deletion of the entries relating to Croatia and Iceland in the lists of countries contained in points C, D, E and F of Annex II.

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that at the date on which the proposal was submitted by the Commission to the European Parliament and to the Council it did not comprise any substantive amendments other than those identified as such. The

¹ The Consultative Working Party worked on the basis of the English language version of the proposal, being the master-copy language version of the text under discussion.

Working Party also concluded, as regards the codification of the unchanged provisions of the earlier act with those substantive amendments, that at that date the proposal contained a straightforward codification of the existing legal text, without any change in its substance.

However, the Consultative Working Party also acknowledged that on 15 November 2016 a new act amending the act being recast was published in the Official Journal, *i.e.* Commission Delegated Regulation (EU) 2016/1969 of 12 September 2016 amending Council Regulation (EC) No 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items. Regulation (EU) 2016/1969 entered into force on 16 November 2016. Its Article 1 introduced new annexes which replaced the texts previously contained in Annex I, Annexes IIa to IIg and Annex IV. That latest amendment should also be taken into account in the context of the legislative procedure carried out with regard to recast proposal COM(2016) 616 final.



E. DREXLER
Jurisconsult



H. LEGAL
Jurisconsult



L. ROMERO REQUENA
Director General