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Subject: Council conclusions on the Review of Export Control Policy

Delegations will find attached the Council conclusions on the Review of Export Control Policy, as adopted by the Council (Foreign Affairs - Trade) on 21 November 2014.

**COUNCIL CONCLUSIONS ON
THE REVIEW OF EXPORT CONTROL POLICY**

1. The EU is a major exporter of dual-use items and a significant actor in counter-proliferation export controls. Considerable efforts have been made by Member States and the EU to strengthen dual-use items export control regime over the last decade, in particular in response to the EU Strategy against the proliferation of weapons of mass destruction (WMD) of December 2003 and the UN Security Council Resolution 1540 (2004). Regulation (EC) No 428/2009¹ provides solid legal and institutional foundations for effective controls, and has been recently amended to empower the Commission to adopt delegated acts concerning the updating of the control list of dual-use items. The Council acknowledges the progress of the review process by Member States and the Commission and takes note of the report on the Green Paper² public consultation of January 2013³, of the report to the European Parliament and Council on the implementation of the Regulation of 16 October 2013⁴ and of the Commission Communication of April 2014⁵, which suggests concrete policy options in order to improve EU export controls, enhancing their effectiveness and coherence. The Council looks favourably at further development of the EU export controls.

¹ OJ L 134, 29 May 2009, p. 1.

² COM(2011) 393 of 30 June 2011.

³ SWD(2013) 7 of 17 January 2013.

⁴ COM(2013) 710 of 16 October 2013.

⁵ COM(2014) 244 of 24 April 2014.

2. The objective of export controls, and of the Dual-Use Regulation in particular, is to prevent the spread of weapons of mass destruction and the destabilizing accumulation of conventional arms. The Council considers that Member States face a substantial question on how to maintain or enhance the level of control while striking a balance between security and legitimate trade. Furthermore, the Council agrees on the importance of a global level-playing field for European industry involved with exports of dual-use items. It will examine the Commission's initiative to minimize administrative burdens and distortions of competition, to reduce transaction costs associated with different controls and to facilitate legitimate trade. The Council also calls on Member States and the Commission to reevaluate intra-EU transfer controls in order to minimise remaining barriers in the Single Market, while maintaining appropriate controls and the traceability of the most sensitive dual-use items.

3. The Council recognizes that the EU export control system must have a strong capacity to respond to potential threats arising from proliferation risks. The controls should be based on a rigorous risk assessment, focusing control in those areas where envisaged risks are higher. The Council encourages cooperation with industry to enhance the EU and its Member States' capacity to effectively tackle the challenges posed by emerging technologies. The Council notes the existing contribution of the EU and its Member States to the international export control regimes, and welcomes efforts to enhance further, and to improve coordination of, those contributions. The Council emphasizes the importance of all Member States, and where appropriate the EU, participating fully in the regimes.

4. The Council recalls the joint statement of the European Parliament, the Council and the Commission of 16 April 2014⁶ acknowledging the issues regarding the export of certain information and communication technologies (ICT). Such technologies could be used in connection with human rights violations as well as to undermine the international security, particularly as regards technologies used for mass-surveillance, monitoring, tracking, tracing and censorship. Member States will assess whether further export controls are necessary to prevent internal repression or terrorism. Therefore, the Council welcomes further discussion and an intensified exchange by the relevant technical experts.
5. The Council acknowledges the need to address the challenge posed by Intangible Transfers of Technology.
6. The Council agrees that a tighter cooperation with academia and research centres would improve the control of "dual-use research", while avoiding undue obstacles to the free flow of knowledge and the global competitiveness of EU science and technology. The Council encourages Member States' efforts in minimizing the risk of an incautious use of dual-use research and the risk associated with potential abuse of scientific research, which could interfere with international security.

⁶ OJ L 173, 12 June 2014, p. 73.

7. The Council underlines that a modern adaptive export control system requires adequate transparency and a substantive partnership with the private sector. For example, setting up an "E-licensing system" in Member States could facilitate the administrative procedures for export controls. The Council supports the efforts of the Commission and Member States to intensify awareness raising and capacity building activities to national administrations and industries, training for EU customs officers, and cooperation with third countries. These activities are essential to enhance the global control level, and should be adequately promoted and supported at the EU level. The Council recognizes the importance of facilitating legitimate exports.

8. The Council looks favourably at a review of the existing general export authorizations and a possible introduction of new European General Export Authorisations (EU GEA), which can facilitate low risk trade for the benefit of all European companies while maintaining the high level of existing controls. At the same time the Council acknowledges that Member States should assess whether the right level of harmonization in licensing (application requirements and license conditions) and in issuing denials (issuing criteria) has been reached.

9. The Council notes that controls on non-listed dual-use items are an essential part of controls. Member States should consider whether the application of "catch all" controls could be further developed, while acknowledging at the same time that the instrument is aimed at specific cases. The Council calls for Member States and the Commission to explore options for enhanced information sharing.