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Dear Sandra

Impact Assessment Study on possible options for the modification of the EU regime on export control of dual-use goods and technologies: February 2006

Thank you for your email of 24 February to the Trade Policy Group. A subgroup of Intellect's Export Control Committee, "JETSECC", met on 23 March 2006 to consider the IAS.

The comments of JETSECC are attached.

With best wishes

Richard Waterhouse
Secretary

JETSECC Comments on the Impact Assessment Study on possible options for the modification of the EU regime on export control of dual-use goods and technologies: February 2006

Task A Identifying the main actors involved in the implementation of export Controls (pages 4 to 6) and collecting feedback from exporters on the implementation of the Regulation (pages 6 to 7)

No views were put forward.

Task B Improving the transparency of the existing national legal and administrative procedures (pages 8 to 11)

JETSECC welcomes Proposal B1 whereby the Commission would expand its website. From national experience (the UK DTI website) the view is that the whole subject of dual-use is not easily accessible to the non-expert; a comprehensive “layman’s” introduction should therefore be provided as a “front page” to any expanded site.

Task C.1 Harmonisation of the export authorisation forms used across the EU for individual and global authorisations (pages 12 to 14)

JETSECC welcomes the recommendation for a standard EU format for the various MS authorisation forms; once achieved it would be easy to move to the next stage, electronic processes for application and transmission of licences to the appropriate national customs authority. It was felt that the report had not fully recognised and supported the desire of industry to move to paperless procedure wherever possible.

Task C.2 Impact of different options to harmonise the conditions of use of Community General Export Authorisation and National General Licences.

Registration JETSECC welcomes any move to address inconsistency in acknowledgement of OGELs and further believes that all OGELs should be registered for consistency. An electronic acknowledgement with a specific registration number should be provided as part of any resultant electronic registration system.

Reporting JETSECC is strongly opposed to a reporting requirement specifically for the purposes of dual-use export licensing. Exports against the CGEA are already reported via the completion of the single administrative document and the export customs entry process. Thus a report is already made to the national Customs Authority at the point of export. This report could be sent to a separate authority by the exporter for export licensing purposes, or the Customs authority could summarise and report regularly on all exports under CGEA.

Task C.3 Impact of conditioning the right to apply for a Global export authorisation on adoption by the exporter of an Internal Compliance Programme. (pages 27 to 32)

Other than the Global Project Licence which is specific there is no global licence equivalent of the US ELA. JETSECC supports the principle of global export authorisation based on industry determining the product, type of end-use, type of end-user etc. Such an arrangement should not exclude Annex 4 items.

Any such licence would complement the considerable investment by large companies (and SMEs) in the establishment of their Internal Control Programmes (ICP). There should be a link between ICP and Global Export Authority (GEA) and the emphasis should be on flexibility and longevity.

A minimalist ICP arrangement would suit SMEs and compel them to act correctly on export control matters.

Task D Impact of imposing different levels of control on dual-use items entering the EC Custom territory, being in transit or transhipped with a view to being exported (pages 33 to 39)

JETSECC agrees the proposal to use information available through customs import systems and risk-based analysis.

Task E Impact of different options for sanctioning illicit brokering of dual-use items (pages 40 to 47)

JETSECC believes the situation described in Note 1 on page 40 is prevalent and that any attempt to impose this proposal would stand to criminalise existing contracts. All responsibility is placed, unfairly, on the exporter.

Task F Impact of options to harmonise the implementation of the Catch-All Clause (pages 48 to 53)

JETSECC members support end-use controls for WMD and torture, but believe that the Commission is obliged to make certain information regarding end users of concern more widely available; this amounts to the EU list being generally accessible. This in turn would permit a single process with a common procedure for screening customers: most companies now have automated screening processes so, if the EU list was not public, there would need to be a further layer of manual screening which would add time, cost and complexity. Greater transparency of this information will support legitimate traders and the regulatory authorities.

Conclusion JETSECC welcomes the suggestion of links between EC and national websites and the plan for integrated forms and process. Industry is aiming for low-cost, risk-based and low-intervention arrangements but which provide predictability as regards process duration and outcome.

JETSECC further strongly recommend that the EU Commission take full advantage of proposals being made by the EU Commission regarding the movement to a paperless environment for Customs/Import formalities. Export Controls should be aligned to this so that such concepts as the Certified Exporter concept (AEO in the Customs sphere) are factored into the strategy for modernising export controls.