



Directive 2009 / 43 / EC on intra-Community transfers of defence-related products

EU – Serbia screening exercise

Brussels, 20 June 2014

DG ENTR G5

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Objectives

- Reduce administrative disparities among Member States
- Simplify and harmonise conditions and procedures
- Strengthen the EU defence industries
- Optimise the defence manufacturing chain
- Guarantee Member States' security of supply

Key elements of ICT

- Legal Basis : Article 114 TFEU
- Is limited to intra-Community transfers
- Does not prejudice the international obligations and commitments of MS
- Does not affect MS policies on human rights, peace and security

Key elements of ICT *cont'd*

- Keep licensing requirement
- Provide a harmonised system of general and global licenses
- Individual licenses remain the exception
- Provide guarantees as to the reliability of recipient

Key elements of ICT *cont'd*

- Scope: defence-related products set out in the Annex
- Components occupy a particular place
- Annex is derived from the Common Military List of the EU (Council Common Position 2008/944/CSFP)
- Annual updates (Commission Directives 2010/80/EU, 2012/10/EU, 2014/18/EU)

Key elements of ICT *cont'd*

Three types of licenses:

1. General licences: allow undertakings fulfilling the conditions to transfer products within the EU. Eligible products and destinations are determined in the licence
1. Global licence: one authorisation delivered by a national authority for 3 years. Allows several transfers to several recipients
2. Individual licence: similar system to the current one

Key elements of ICT *cont'd*

Certification of recipient undertakings:

- For companies wishing to procure under **general licences**
- Certificates granted and managed by Member States and recognised by the other Member States
- Convergent criteria for EU-wide reliability
- Requirement of sound **internal compliance programmes** in companies
- Safeguard clause allowing the interruption of products flow

Key elements of ICT *cont'd*

Operational features of certification

- are specified in *Commission Recommendation 2011/24/EU*
OJEU L11 of 5.1.2011
<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:011:0062:0074:EN:PDF>
- Provides guidelines for a common approach to certification
- Undertakings eligible for certification → integrators
- Certification issuance → standard certification template
- Compliance monitoring
- Corrective measures: suspension, reassessment...

Key elements of ICT *cont'd*

Central EU register of certified undertakings - CERTIDER

- Foreseen in Article 9 of the Directive
- Is accessible on the Commission's website
<http://ec.europa.eu/enterprise/sectors/defence/certider/>
- With input from Member States
 - List of competent authorities
 - List of certified companies
 - Links to national legislation
 - Information about certificates, undertakings and products
 - Information on General Licenses published by Member States
- Operational since mid 2012

Implementation / Challenges

- Achieve a balance between *simplification* objectives and *security* needs
- Success of Directive lies in a relatively *homogeneous* interpretation and transposition among Member States
- System should be *attractive* enough for companies and have enough *security assurances* for Member States

Implementation / Challenges

- Commission report on transposition COM(2012) 359 final of 29 June 2012
 - Explains in detail how the different provisions have been transposed
 - Concludes on a good interpretation of key features of ICT (list of products, certification of companies)
- The Commission closely monitors the transposition and the implementation of ICT with the support of the Committee and assistance of MS
- Commission report on implementation: 30 June 2016

Conclusion

- All Member states have transposed the Directive
- Present status of the implementation indicates that there is still potential for further harmonisation

Information & contacts

Website:

http://ec.europa.eu/enterprise/sectors/defence/legislation/index_en.htm

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