

Defence-related products: simplifying terms and conditions of transfers within the Community

2007/0279(COD) - 05/12/2007 - Legislative proposal

PURPOSE: to simplify and harmonise licensing conditions and procedures for defence-related goods and services.

LEGISLATIVE ACT: Directive of the European Parliament and of the Council.

CONTENT: in spite of coordinating efforts being undertaken between a limited number of Member States, the European defence market remains fragmented and divided. Twenty seven national licensing regimes currently exist. These regimes diverge widely in terms of procedure scope and required delays. Further, in all EU Member States, the export of defence related products (including comprehensive military equipments as well as sub-systems, components, spare parts, technologies) are subject to national licensing schemes. This patchwork of schemes not only imposes a significant administrative burden on companies, it also includes significant lead times – up to several months. These burdens are out of proportion with actual control needs: license applications for intra-Community transfers are rarely rejected. Such divergences constitute a major impediment to industrial competitiveness, and a considerable obstacle to the emergence of a European Defence Equipment Market (EDEM) as well as the functioning of the Internal Market. According to a study carried out for the European Commission in 2005, the direct and indirect cost of obstacles to intra-community transfers amounts to EUR 3.16 billion per year. The processing of licences has a direct cost of EUR 434 million per year while indirect costs have been estimated at EUR 2.73 billion/year.

The purpose of this proposal, therefore, is to reduce existing obstacles to the circulation of defence-related goods and services (products) within the Internal Market, and to diminish the resulting distortions of competition. To do so, this proposal focuses specifically on simplifying and harmonising licensing conditions and procedures for the transfer of defence-related products. This proposal forms part of a package of defence related proposals:

- On public procurement. See [COD/2007/0280](#) and
- Transfers of defence-related products (the subject of this summary).

In addition, the Commission has prepared a Communication for a stronger and more competitive defence industry. See [COM/2007/0764](#).

Following an in-depth impact assessment, the Commission decided to propose a way forward that incorporates a two-fold approach:

- firstly, on the matter of simplification, the proposal requires Member States to grant general and global licences for intra-EU transfers. Individual licensing should be kept for exceptional circumstances only.
- secondly, on the matter of harmonisation, the proposal requires Member States to establish systems of general licences for two types of transfers of defence related products: transfers to governments in any other Member State; and transfers to recipients in other Member States certified in accordance with the common criteria in the Directive. Further, Member States are required to

determine for each licence the terms and conditions of its use regarding, in particular, defence related products covered and their possible uses as well as reporting obligation of companies using the licences.

The proposal includes two elements to foster confidence between Member States:

- Member States will be required to certify, according to common requirements, those companies who wish to source according to general licences issued in other Member States.
- When applying for an export licence, companies would have to confirm to their competent authorities that they respect the export limitations issued by the originating Member States.

The proposal has implications on the Community budget. These relate to the following new tasks:

- Work in the Council for updating the Annex of the Common Military List.
- Reporting on measures taken by the Member States to implement the provisions of this Directive.
- Reporting on the functioning of the Directive and its impact on developments of the European defence equipment market and the European defence technological and industrial base.
- Organising work for the “Cooperation Group”.
- Monitoring compliance of procedures and methods of cooperation between the Member States.