

Trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment

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The Committee on International Trade adopted the report by Marietje SCHAAKE (ADLE, NL) on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

Parliament's position adopted in first reading following the ordinary legislative procedure amends the proposal as follows:

Definition of 'broker': Members feel that the EU should also be able to enforce this Regulation when EU nationals or **legal persons** established in the EU are involved in transactions that take place outside the Union territory.

Prohibition of commercial marketing and promotion: online and offline commercial marketing and promotion activities within the Union, by any natural or legal person or partnership, for the purpose of the transfer of goods listed in Annex II shall be prohibited.

Targeted end-use clause: Members propose to insert such a clause in order for Member States to suspend or halt the transfer of security-related items not listed in Annexes II and III that clearly have no practical use other than for the purposes of capital punishment, torture or other cruel, degrading or inhuman treatment or punishment, or where there are reasonable grounds to believe that the transfer of those items would lead to the facilitation or the commission of capital punishment, torture or other cruel, degrading or inhuman treatment or punishment. Powers granted under the targeted end-use clause should not extend to medical products that could be used for the purpose of capital punishment,

Criteria for granting export authorisations: the amended text stipulates that the competent authority shall not grant any authorisation when there are reasonable grounds to believe that goods listed in Annex III and Annex IIIa might be used for torture or other cruel, inhuman or degrading treatment or punishment, including judicial corporal punishment, by a law enforcement authority or any natural or legal person in a third country.

The competent authority shall take into account available international court judgements and findings of the competent bodies of the UN, the Council of Europe and the EU.

Transit authorisation requirement: Members proposed to strengthen the provision regarding authorisation in order to prevent the transit of goods for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

Technical assistance delivered independently of the supply of equipment: a supplier of technical assistance shall be prohibited from giving instruction, advice, training or transmitting working knowledge or skills that could aid the commission of capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

Exchange of best practices: Members consider that best practice guidelines built upon the experiences of both Member States and third country authorities would set a clearer framework for determining the end-use of goods that could be misused for capital punishment, thereby also facilitating legitimate exports for intended use, especially in the medicinal and pharmaceutical sector.

Non-listed goods: Members suggested introducing a **catch-all clause** to ensure that additional safeguards against the risks are in place with regard to the export of goods not listed in the annexes. In such cases the Commission should adopt delegated acts adding items to Annex II, Annex III or Annex IIIa.

Customs procedures: if a customs declaration is made concerning goods listed in Annex II, III, or IIIa and it is confirmed that no authorisation has been granted pursuant to this Regulation for the intended export or import, the customs authorities shall detain the goods declared and draw attention to the possibility to apply for an authorisation pursuant to the Regulation. If the competent authority dismisses such an application, the customs authorities shall dispose of the detained goods.

Delegation of power: the delegation of powers has been carried out under [Regulation \(EU\) 37/2014](#) (the "Trade Omnibus I"). Consequently, provisions on the delegation of powers in the current proposal are redundant and are deleted.

Anti-Torture Coordination Group: Members proposed the setting up of Coordination Group chaired by a representative of the Commission. Each Member State shall appoint a representative to this Group. It shall examine any question concerning the application of the Regulation and take appropriate measures to establish direct cooperation and exchange of information between competent authorities.

Report: three years after the entry into force of the Regulation and every three years thereafter, the Commission shall review the implementation of the Regulation and present a comprehensive report which may include proposals for its amendment.

The Commission shall assess whether rules on **penalties** laid down by Member States are of a similar nature and effect.

Annex II Part 2: Members deleted from the Annex certain countries that have not abolished the death penalty or have not ratified without reservation the 2nd Optional Protocol to the International Covenant on Civil and Political Rights (Benin, Madagascar, Liberia, Mongolia and Sao Tomé-et-Príncipe).