



Dual-Use Regulation 428/2009 – Series (2) – Dual-use items of Annex I

The **export** of dual-use items listed in Annex I will continue to require an authorisation.

The same authorisation requirement will continue to apply for **brokering services** related to such listed items. The definition of such services has not been amended and includes the negotiation or arrangement of transactions for the purchase, sale or supply of dual-use items from a third country to any other third country, or the selling or buying of dual-use items that are located in third countries for their transfer to another third country. The sole provision of ancillary services (transportation, financial services, insurance or re-insurance, or general advertising or promotion) will continue to be excluded from this definition.

Requirements related to the **transit** of non-EU Annex I items will not change as well. They reserve an option to prohibit to authorities who may impose in individual cases an authorisation requirement before deciding whether or not to prohibit. New provisions however will designate the person on whom this authorisation requirement may be imposed, being the person holding the contract with the consignee in the third country and having the power for determining the sending of the item passing through the EU territory. If this person is not resident or established in the EU, it may be the declarant, the carrier, or the natural person carrying a dual-use item in his (her) personal baggage.

A new authorisation requirement will apply to **technical assistance** related to Annex I items. This will apply in case the supplier has been informed by the competent authority that the items are or may be intended for proliferation or for a military use. An obligation to notify the authorities will apply in case the supplier is aware of such (potential) use. Six series of exceptions will apply to that requirement (i.e. supply for armed forces, transfer of information that is in the public domain or basic scientific research).

Intra-EU transfers of items of Annex I shall continue to be excepted from an authorisation requirement. Normal customs control procedures will apply here. There will however be room for stronger national legislations to that regard.

Note: This contribution is based on the full provisional agreement reached on 9 November 2020 on a final compromise text to amend the EU Dual-Regulation 428/2009 of 5 May 2009. The entry into force of this text is still subject to an approval by the Council and the Parliament and a publication in the EU Official Journal.

