

 lisakucher3  Jan 26, 2021 3 min read

## Space Technologies – Series (10) – Brokering

Today, part 510 – Brokering of space technologies

Brokering follows different rules, depending on whether it concerns space technologies classified as being defence-related products or dual-use items.



### Regarding defence-related products

Brokering of defence-related products means the activity of:

- negotiating or organizing transactions which may involve the transfer of defence-related products from a third country to another third country;

- purchasing, selling or transferring defence-related products from a third country to any other third country;
- exporting defence-related products from the territory of the Grand Duchy of Luxembourg or that of another Member State of the European Union;
- providing auxiliary services such as the provision of technical assistance, the activity related to the conclusion of a lease, gift, loan or deposit relating to the transfer of the concerned products, transportation services, financial, insurance and re-insurance services, general advertising, and promotion.

The exercise of a brokering activity in connection with defence-related products shall be subject to authorization. From a geographical point of view, this concerns:

- the exercise on the territory of the Grand Duchy of Luxembourg of the brokering activity in relation to defence-related products;
- any brokering activity in relation to defence-related products where the export of such products is from the territory of the Grand Duchy of Luxembourg or through the territory of the Grand Duchy of Luxembourg;
- any brokering activity in relation to defence-related products, where the brokerage activity is exercised outside the territory of the Grand Duchy of Luxembourg by a broker established on the territory of the Grand Duchy of Luxembourg, who operates from the Grand Duchy of Luxembourg or whose center of main interests is located in the Grand Duchy of Luxembourg.

The brokering of environmental modification techniques is again prohibited.



### Regarding dual-use items

For these items, brokering refers to the activity of a company which:

- negotiates or arranges transactions for the purchase, sale or supply of dual-use items from a third country to any other third country, or
- sells or buys dual-use items that are located in third countries for their transfer to another third country.

For example, a Luxembourg based space company which orders from a Chinese company the manufacturing of a satellite (or components thereof) and their shipment to the United States could be considered as a broker of dual-use items.

Ancillary services, such as transportation, financial services, insurance or re-insurance, general advertisement and promotion, are excluded from this definition.

In principle, it is allowed to provide brokering services related to dual-use items from the EU customs territory.

However, for certain dual-use items, brokering is subject to a prior Governmental authorization. This concerns:

- dual-use items listed in Annex I of Regulation 428/2009, if the competent authorities of the Member State in which the broker is resident or established have informed that the items in question are or may be intended, in their entirety or in part, for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons;




- non-listed dual-use items, for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons;
- dual-use items for military end-use and where the purchasing country or country of destination is subject to an arms embargo imposed by a decision or a common position adopted by the Council or a decision of the Organisation for Security and Cooperation in Europe (OSCE) or an arms embargo imposed by a binding resolution of the Security Council of the United Nations;
- dual-use items not listed in Annex I of Regulation 428/2009 if the broker has grounds for suspecting that these items are or may be intended for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons.






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