



Opinion Paper

Evaluation of the EU Dual-Use Regulation ((EU) 2021/821)

Recommendations for a practical, proportionate and
competitive European export control framework

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Evaluation of the EU Dual-Use Regulation: Recommendations for a practical, proportionate and competitive European export control framework

The EU Dual-Use Regulation (Regulation (EU) 2021/821) provides the central European legal framework for controlling exports of goods, software and technology that may have both civilian and military applications. The European Commission is currently evaluating the application of the Regulation, which has been in force since 2021. In particular, it is assessing whether the current EU export control framework keeps pace with changing geopolitical conditions and technological developments, remains effective, and in which areas adjustments may be needed.

The opinion paper is structured around the consultation questionnaires published by the European Commission and addresses the priorities identified in them. Particular emphasis is placed on the further harmonisation of export control practices across Europe, including general authorisations at both Member State and EU level, the possible extension of catch-all controls to emerging technologies and cyber-surveillance technologies, controls on intangible transfers of technology, and the way licensing and administrative procedures are structured in the Member States.

We appreciate the opportunity to submit comments. This position paper is based on the views received by DIHK from the Chambers of Commerce and Industry (IHKs) and companies by the submission deadline, as well as on DIHK's economic policy positions.

Executive Summary

1. Balanced harmonisation: preserve national general authorisations

Greater harmonisation of European export control practices is generally welcomed, as uniform interpretations and procedures can enhance legal certainty, reduce competitive distortions within the internal market and reduce the administrative burden on companies operating across borders. At the same time, well-established national general authorisations must remain a central pillar of a risk-based, practical export control system. They streamline export procedures and reduce the burden on authorities and companies, particularly small and medium-sized enterprises (SMEs), and are therefore particularly important for Germany as a key dual-use export hub. Harmonisation must neither make the strictest national requirements the EU-wide benchmark nor remove tried-and-tested simplifications or delay procedures.

2. Catch-all controls: addressing emerging technologies and cyber-surveillance in a targeted manner

A review of the control framework for emerging technologies and cyber-surveillance is understandable in view of the dynamic nature of the risks involved. However, catch-all controls already pose significant difficulties for companies in determining the scope of the controls and assessing individual cases. A broad expansion would further exacerbate these difficulties. As a safety-net instrument, catch-all controls should therefore remain limited to specific risks that are not otherwise covered. Wherever possible, preference should be given to clearly defined and regularly updated control lists. Controls on emerging technologies must not unnecessarily impede international research and innovation.

3. Clarify the scope of controls on intangible technology transfers

Companies need practical, EU-wide criteria, for determining when the cross-border exchange of data, software, technical knowledge and know-how constitutes a technology transfer subject to export controls. This is particularly relevant to digital business models and forms of cross-border collaboration, such as cloud-based and SaaS services. Practical guidance and illustrative examples should enable companies to assess specific cases with sufficient legal certainty, without unnecessarily impeding international research and development cooperation or modern digital business models.

4. Create clarity, reduce bureaucracy and improve practical implementation

The evaluation should reduce existing grey areas and simplify and accelerate licensing procedures. The complex subject matter, including the Regulation itself, should therefore be presented in a way that is more comprehensible, clearer and more practical. In view of rising compliance costs and an increasing density of regulation, SMEs in particular require practical relief measures and efficient processes. Technical parameters should be reviewed regularly and adapted to the state of the art where technological developments have rendered previous thresholds obsolete.

5. Make consultation procedures more practice-oriented

The involvement of the business community in the evaluation is important. However, the timing during the summer recess, the scope and level of detail of the questionnaire, and the fact that it is sometimes not closely aligned with operational processes make it difficult, particularly for SMEs, to contribute meaningfully. Future consultations should set out the relevant options for action more transparently and be more closely aligned with business practice.

In Detail

The evaluation of the Dual-Use Regulation provides an opportunity to review the existing regulations in terms of their practicality, legal certainty and competitiveness. From the perspective of the German business community, a balanced relationship must be maintained between legitimate security interests and the competitiveness of German and European companies.

Export controls are an important tool for limiting specific security-related risks associated with the export of dual-use goods, software and technologies. However, they cannot serve as a broad-based instrument for resolving geopolitical conflicts or replace other foreign, security and economic policy measures. Rather, it is most effective where controls are clearly defined, risk-based and targeted at specific goods, technologies, end-uses and end-users. This specific mandate and the limits of export controls should be taken into account when evaluating and potentially further developing the Dual-Use Regulation.

1. Balanced harmonisation: preserve national general authorisations

The German business community generally welcomes greater harmonisation in the application of dual-use regulations within the European Union. More uniform interpretations and enforcement, as well as assessment criteria and authorisation procedures, can enhance legal and planning certainty, reduce distortions of competition in the single market and minimise the administrative burden on companies operating across borders.

However, harmonisation should not make the strictest national requirements the benchmark across the Union, but should leave appropriate scope for location-specific requirements and tried-and-tested national instruments. This applies in particular to national general authorisations. They enable recurring and clearly defined export transactions, particularly for SMEs, to be processed with legal certainty and without time-consuming individual authorisation procedures. In doing so, they reduce compliance and planning costs and create reliable framework conditions for international supply chains. At the same time, they ease the burden on licensing authorities. Standardised, low-risk transactions do not need to be assessed on a case-by-case basis, meaning that staff resources can be targeted specifically at sensitive and complex exports. For Germany, as one of the EU's largest dual-use export hubs, effective national general authorisations are therefore of particular importance. General authorisations should therefore be retained at all costs and further developed in a targeted manner. The aim should be a coherent, transparent and efficient application that strengthens the single market without dismantling tried-and-tested simplifications or creating additional regulatory burdens.

2. Catch-all controls: addressing emerging technologies and cyber-surveillance in a targeted manner

Emerging technologies are developing at a rapid pace and are constantly giving rise to new applications as well as potential security-related risks. Against this backdrop, a review of the current control framework is understandable. However, this does not mean that catch-all provisions should be extensively expanded. As a safety-net instrument, they are intended to address specific security-related risks not covered by existing control lists. Even today, the necessary case-by-case assessments under catch-all provisions present companies with considerable questions of delimitation and difficulties in determining the scope of the controls. It is often unclear what information must be obtained, what indications trigger a duty to assess and how far exporters' responsibility extends. An extension should therefore only be considered for clearly defined risks that are not otherwise covered. Otherwise, there is a risk that the assessment of geopolitical risks will be shifted onto individual companies.

These difficulties are particularly evident in emerging technologies such as artificial intelligence, quantum technologies and biotechnology. It is often difficult to determine which specific applications are security-relevant, at what stage of development a control should apply, and how civilian research can be distinguished from uses subject to control. Since such technologies are frequently developed through international research and development partnerships and evolve dynamically, broadly framed catch-all controls could also capture purely civilian applications, hinder cooperation and impair innovation and technological competitiveness. Before such controls are introduced or extended, their effects on innovation, research cooperation and international competitiveness should therefore be assessed systematically and weighed against the expected security benefit. Specific risks should primarily be addressed through control lists that are coordinated as far as possible at a multilateral level and updated regularly.

However, as the updating of multilateral control lists has been only partially possible in the recent past, it should also be examined whether supplementary mechanisms can be established at EU level to adapt control lists more swiftly and in a more targeted manner in line with technological developments, thereby avoiding recourse to broadly framed catch-all controls wherever possible. Technical parameters and thresholds should be reviewed regularly and aligned with the state of the art where technological developments have rendered existing requirements obsolete.

Any extensions to the control lists should be announced at an early stage and accompanied by appropriate transitional periods so that companies can adjust their processes, contracts and supply chains in good time. Supplementary catch-all measures should remain limited to demonstrated risks that are not otherwise covered. In the field of cyber-surveillance, too, obligations must be clear, proportionate and provide legal certainty.

3. Clarify the scope of controls on intangible technology transfers

Emerging technologies are frequently developed through international research and development cooperation. Technology-intensive companies are therefore reliant on the cross-border exchange of data, software, technical information and know-how. Such cooperation is an essential foundation for innovation, technological leadership and the long-term competitiveness of German and European companies.

Particular care is therefore required when controlling intangible technology transfers. In practice, it is often difficult to determine when a technology transfer subject to controls takes place, which technology is covered, and how embodied technology is to be distinguished from intangible technology, as well as how mere services are to be distinguished from controlled technical assistance. Companies need clear and, as far as possible, EU-wide consistent criteria for this purpose. This applies in particular to remote maintenance, cloud access and digital collaboration platforms. Particular questions of delimitation arise in relation to cloud computing and SaaS services, especially regarding the conditions under which access to technology, as well as its storage or processing, is to be regarded as a provision or transfer subject to control.

Together with the Member States and following comprehensive consultation with the businesses concerned, the European Commission should publish practical guidance and illustrative examples that take account of the technical and operational realities of modern business models, are practicable, and enable companies to classify specific situations with legal certainty. Overall, the requirements should be designed in such a way that companies can reliably identify transactions subject to controls without generally impeding international research and development cooperation or legitimate knowledge and technology transfers.

4. Create clarity, reduce bureaucracy and improve practical implementation

The requirements for export control compliance have increased significantly in recent years. This affects SMEs in particular, which must meet the same complex requirements as larger companies, yet often have significantly fewer staff and specialist resources at their disposal. The burden of classification, documentation and consultancy work therefore weighs particularly heavily on them. Simplifications and efficient authorisation procedures should therefore be central objectives of the evaluation.

The increased publication of FAQs and guidelines in the area of sanctions is generally perceived by the business community as providing helpful guidance. A similar approach and practical guidance on interpretation would also be desirable within the framework of the Dual-Use Regulation. In particular, jointly agreed interpretative guidance from the Member States, practical examples on typical issues of delimitation and supplementary guidelines from the European Commission would be helpful. The Regulation itself should also be communicated in a clearer, more accessible and more practical manner. Companies also require concrete support in classifying goods and technologies. Existing grey areas and differences in interpretation should be reduced before new obligations are introduced. To this end, digital support services and other appropriate measures to ease the burden should be expanded in a targeted manner.

In a modern and effective export control framework, existing controls must be regularly reviewed to ensure they are objectively justified and proportionate. The systematic streamlining of Annex I should be given the same priority as the introduction of new controls. Outdated provisions continue to impose classification, documentation and authorisation burdens on businesses and authorities, tying up resources that are needed for genuinely sensitive goods and

technologies. Annex I should therefore be reviewed regularly on the basis of clear criteria. These include, in particular, the global availability of the goods and technologies concerned, the performance level of comparable products, and their significance for the resilience of European supply chains and Europe's technological sovereignty. Listings and thresholds that no longer make a relevant contribution to security should be amended or removed.

5. Make consultation procedures more practice-oriented

German business welcomes the opportunity to contribute practical experience to the evaluation. However, the timing of the consultation during the summer recess, as well as the scope and level of detail of the questionnaire, make meaningful participation more difficult.

Future consultations should set out the policy options under consideration more transparently and align them more closely with specific business processes. Only in this way can security interests and practical implementation be reconciled. As soon as concrete measures or regulatory options are available, the German business community stands ready to engage in a targeted exchange on their practical implications and possible design.

Who we are:

The German Chamber of Commerce and Industry (DIHK) is the umbrella organisation of the 79 Chambers of Commerce and Industry (IHKs) in Germany. Together, they represent the interests of more than three million companies from industry, trade and services – from small local businesses to globally active corporations. Their shared objective is to ensure the best possible conditions for successful business.

At the national level, the DIHK consolidates the positions of the IHKs through a formal, statutory-based process. It represents the overall interests of the German business community vis-à-vis policymakers, public authorities and the wider public. At both the federal and European levels, the DIHK advocates for competitive framework conditions, including reduced bureaucracy, open markets and modern infrastructure.

The DIHK serves as a platform for the diverse perspectives of its member companies. Its analyses and statements reflect a broad range of views, including minority positions, in order to provide policymakers with a comprehensive and balanced picture. In this way, the DIHK contributes to informed and credible economic policy debates in Berlin and Brussels.

Entrepreneurs play a central role in shaping the DIHK's positions through their engagement in statutory and voluntary bodies such as general assemblies and committees. Their work is supported by more than 200 staff members in Berlin and Brussels. The DIHK's Chief Executive Officer, appointed by the General Assembly, is responsible for day-to-day operations.

In addition to its national role, the DIHK coordinates a global network of more than 150 German Chambers of Commerce Abroad (AHKs), delegations and representative offices in over 90 countries, supporting German businesses worldwide.