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COVER NOTE

From : General Secretariat of the Council

To : Delegations

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Subject : **Implementation of the recommendations of the Peer Review of Member States' export control systems for dual use goods**

- Report on progress made in 2005 noted by Council on 12 December 2005

Delegations will find attached a report on progress made during 2005 to implement the recommendations of the Peer Review of Member States' export control systems for dual use goods which was noted by Council on 12 December 2005.

Report on progress made during 2005 to implement the recommendations of the Peer Review of Member States' export control systems for dual use goods

1. The Action Plan against Proliferation of WMD adopted by the European Council in June 2003 and the EU Strategy against the proliferation of WMD adopted by the European Council in December 2003 include a commitment to reinforce the effectiveness of export controls on dual-use goods in an enlarged Europe. Accordingly a Peer Review of Member States' export controls was carried out to identify and to disseminate best practice. As well as being a useful exercise in itself, the Peer Review produced a number of recommendations for further action both at national and EU level. The Council issued on 13 December 2004 a statement to the effect that the recommendations of the Peer Review, identified in nine broad areas, should be acted upon at EU level without delay. The implementation of these recommendations has been taken forward as a priority by the Council Working Party on Dual-Use Goods under the leadership of the Luxembourg and UK Presidencies.
2. The EU is a major producer of the sophisticated goods and technologies sought by proliferators. It is vital for global security to ensure that Regulation (EC) No.1334/2000 on the control of exports of dual use items and technology is both comprehensive in scope and also administered in a consistent and effective manner across the Union by the Member State licensing authorities. Equally, controls must be proportionate to the risk and must not distort the Single Market or damage the global competitiveness of European enterprises. Therefore the Working Party on Dual-Use Goods has been concerned wherever possible to proceed through the sharing of best practice to raise standards across the Union, building on the collaborative spirit and common agenda engendered by the Peer Review.
3. Work has focussed on the nine broad areas identified in the Council statement of December 2004. The main achievements have been:
 - Systematic and timely notification of information by Member States to the Commission on national legislation and contact points to ensure **transparency and facilitate cooperation;**

- Discussion of the conditions attached by Member States to use of the various kinds of **export authorisations** to ensure divergent practices are minimised;
- Subject to the results of an impact assessment study, a review of the Regulation as regards dual use **goods in transit or transshipment**, in furtherance of the EU's obligations under UNSC Resolution 1540;
- The establishment of a pool of technical experts to assist their colleagues in **recognition of dual-use items subject to control**. An innovative recognition software tool has also been developed by a Member State and will be made freely available;
- Agreement to establish an electronic **database to record denial notices** made by Member States under the Regulation and in the international export control regimes. Intensive technical work has taken place to prove the concept and basic design, and a pilot project is now underway with a view to completion by mid-2006. This database will eventually significantly enhance the capability of the Member States to exchange information quickly in order to thwart attempts simultaneously to procure similar goods in several Member States;
- A comprehensive review of licensing and customs practices regarding **control enforcement** has been carried out;
- An examination of the **administration of the catch-all control** which can be used to control export of non-listed goods which are destined for use in a WMD programme. Industry has drawn attention to differing interpretations between Member States;
- A checklist that Member States can use to benchmark their existing practices on **interaction with industry** (doc. 15291/05) to achieve a higher level of awareness by EU enterprises of export controls and to ensure their full support and active cooperation in the fight against proliferation WMD. A wide consultation of industry/exporters on means to improve export controls has been launched;
- A note on existing controls on the **transfer of technology** by intangible means (doc. 15290/05).

4. As regards further work, the recommendations produced by the Peer Review represent an ambitious and challenging agenda. Successful implementation must be gradual because it depends in many cases on embedding procedural and cultural changes across the Member States. Progress on a number of issues, including how to achieve greater convergence in the use of the various kinds of authorisations and of practices concerning the implementation of the catch-all clause, or the most efficient way to carry out controls on transit and transshipment, will be made in the light of an impact assessment study being conducted on the Commission's behalf. These and other outstanding issues will be addressed in a communication that the Commission will present to the Council in 2006.
5. The Austrian and Finnish Presidencies are fully committed to taking this important work forward in 2006.
