



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels,
SEC(2007)1605

AVIS DU COMITE DES EVALUATIONS D'IMPACT

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on simplifying terms and conditions of transfers of defence-related products within the
Community**

{COM(2007)765 final
SEC(2007)1593
SEC(2007)1594}



Brussels, 20 July 2007
D(2007) 6793

Opinion

Title **Impact Assessment on a Commission proposal for a regulation on intra-Community transfers of defence products**

(Draft of 27 June 2007)

Lead DG **DG ENTR**

1) Impact Assessment Board Opinion

(A) Context

All Member States implement their own legislation to regulate the import, export and transit of defence products. The current patchwork of national licensing requirements imposes a significant administrative burden on companies and hinders the development of a European Defence Equipment Market (EDEM). This IA report accompanies an initiative on intra-community transfers of defence-related products. It belongs together with a complementary proposal on defence procurement to a package aiming at completing the internal market for defence-related products and at reinforcing the EU defence industry's competitiveness.

(B) Positive aspects

The IA report gives a useful overview about the relevant political and legal context and the main policy options available to facilitate intra-Community transfers of defence products are clearly explained.

(C) Main recommendations for improvements

The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted to the author DG.

General recommendations: The IA report should better clarify and analyse the key problems (obstacles to intra-community transfers) and should improve the analysis of social, employment, regional and sectoral impacts. The international dimension of the proposed measures, in particular the relations with the US ITAR rules need to be clarified and the robustness of certain cost/benefit estimates should be reviewed. These recommendations were largely accepted by DG ENTR in the Board meeting.

(1) The problem definition should better articulate and analyse the obstacles to effective intra-community transfers of defence-related products. The IA report should elaborate in more detail on the reasons for and the problems caused by the current patchwork of national licensing procedures and the resulting implications on administrative burden and product lead times. Moreover the IA report should clarify whether the problem relates not only to defence goods but also to sensitive non-military security products, as the parallel proposal on defence procurement covers both sectors.

(2) The continued need for intra-community transfer licences needs to be better explained since the current presentation gives the impression that licence applications are not rejected in practice by Member States. In this context, an analysis of the potential deterrent effect of the prevailing licensing regime deserves special attention. The IA report should also articulate better the expected benefits for economic actors and administrations that can be expected from the envisaged shift from an ex-ante licence control to an ex-post enforcement regime. It should be made also clear to what extent this system change has received the support of key stakeholders.

(3) The international dimension of the proposed measures requires further analysis. The overall potential for positive impacts needs to be clarified and analysed to the extent that European defence products incorporate components of US origin falling under the restrictive ITAR rules, which per se limit the scope of possible intra-EU transfers. If confirmed, this limitation could have significant impacts on the size of savings in the field of indirect costs. Moreover the IA report should assess the impact of the proposed measures on third-country defence product producers and on the re-export of defence products from the EU to third Countries.

(4) Employment, social, regional and sectoral impacts need to be assessed more thoroughly. The IA report should provide more detailed information on the current industry organisation and how it might be affected by the proposed measures (while taking into account also the twin proposal on defence procurement). Further analysis is required with respect to the likely distributional effects of key economic and social impacts, differentiating clearly by affected sub-sector, Member State/Region and company size (with a special focus on SME's). This analysis should give an indication of the expected short- and long-term employment effects as well as potential restructuring costs/benefits and impacts on outsourcing.

(5) The IA report should review the robustness of certain cost/benefit parameters when calculating administrative costs to avoid unrealistic estimates. Assumptions about appropriate labour cost rates require further validation and the appropriateness of using the US as benchmark for estimating overall indirect costs needs to be better justified.

(D) Procedure and presentation

It appears that all necessary procedural elements have been complied with.

2) IAB scrutiny process

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| Reference number | 2007/ENTR/010 CLWP 2007 Strategic initiative |
| Author DG | DG ENTR- H - 1 |
| External expertise used | No |
| Date of Board Meeting | 18 July 2007 |
| Date of adoption of Opinion | 20 July 2007 |

