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Ambassador/Ambassadeur

Ottawa, 12 April 2017

Honourable Senator Jim Munson  
Chair, Standing Senate Committee on Human Rights  
Senate of Canada  
Ottawa, Ontario  
K1A 0A4

Honourable Senator Munson,

Thank you for your letter of 2 February 2017 with a request for information about the European Union's "human security" dimension of export controls.

Upon consultation with the relevant services in the European Commission (DG TRADE) and the External Action Service (EEAS), I am pleased to send you the information below on the human security dimension of the Commission's proposal.

Considering the emergence of new categories of dual-use items and in response to calls from the European Parliament, the Commission proposal for a modernisation of the EU dual-use export control (COM (2016) 616) provides for new tools that would allow more efficient control over dual-use items, including addressing the proliferation of cyber-surveillance technologies and the risks they pose to international security and to the protection of human rights and digital freedoms in a globally connected world.

Practically, the Commission's proposal addresses several gaps in the current system:

- The definition of dual-items is revised to include explicitly cyber-surveillance technologies.
- The authorisation control criteria are reviewed to prevent exports where there is a clear risk of human rights violations.
- An EU autonomous list of cyber-surveillance technologies is proposed and the human security end-use control ('catch-all') for non-listed dual-use items is expanded in order to trigger the application of controls based on a series of cumulative human security criteria.

The assessment criteria for authorisation applications of listed dual-use items are detailed in Article 14 (1) of the Commission proposal and refer explicitly to respect for human rights in the country of final destination as well as that country's respect of international humanitarian law.

The cumulative human security criteria for non-listed dual-use items are detailed in Article 4.1 (d) of the Commission proposal, and are intended to limit the application of controls to specific situations and specific technologies. The controls are targeted to persons engaged in specific activities and not to entire destinations or countries. The implementation by companies and authorities of these criteria, such as the identification of the 'relevant public institutions', the modalities for the determination of 'serious human rights violations' and situations of 'conflict/internal repression' will be operationalised in guidelines. The Commission, in close consultation with the Member States and stakeholders, will develop guidelines to support the practical applications of these controls.

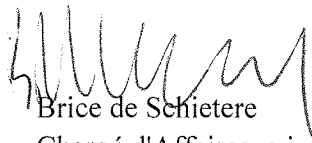
On strategic export control, the division of tasks within the EU is defined by art. 346 of the TFEU (Treaty of the Functioning of the European Union), that excludes the trade in military goods from the EU Common Market. Export of military goods is a national competence of the Member States governed by CFSP Common Position 2008/944. The export of dual-use goods is a Commission competence regulated by Regulation 428/2009 which is currently under revision.

The following webpages of DG TRADE, also provide further detail:

<http://ec.europa.eu/trade/import-and-export-rules/export-from-eu/dual-use-controls/> and  
[http://trade.ec.europa.eu/doclib/cfm/doclib\\_section.cfm?sec=192](http://trade.ec.europa.eu/doclib/cfm/doclib_section.cfm?sec=192)

We do hope that this input proves useful to the Senate Committee's very important work, and we would be pleased to provide further information, as needed.

Yours sincerely,



Brice de Schieter  
Chargé d'Affaires, a.i.

Cc:

Honourable Senator Salma Ataullahjan  
Deputy Chair, Standing Committee on Human Rights