

## E-ALERT | International Trade Controls

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### DEVELOPMENTS IN EU SANCTIONS AND TRADE CONTROLS: NEW EU DUAL-USE LIST ENTERS INTO FORCE, NEW SANCTIONS AGAINST SYRIA ADOPTED

On 15 June 2012, and after a considerable delay, [Regulation 388/2012](#) amending Annex I of the EU Dual-Use Regulation (“the EU Dual-Use List”) came into force. The list has been updated to reflect changes agreed to the international non-proliferation regimes to which the EU and/or its Member States are party.

In addition, the European Union has extended its sanctions regime against Syria via [Regulation 509/2012](#) as well as [Regulation 2012/544/CFSP](#) and [Regulation 545/2012](#). The sanctions came into force on 17 and 26 June 2012, respectively.

#### EU DUAL-USE LIST

The EU’s general framework for dual-use export controls is set out in Regulation (EC) No 428/2009 (“the Dual-Use Regulation”), with controlled items listed on the EU Dual-Use List. The Dual-Use List is drawn from lists of controlled products that are agreed upon by the EU and other major exporting nations in various multilateral export controls regimes, such as the Wassenaar Arrangement, the Australia Group, and the Missile Technology Control Regime. The List is similar to dual-uses control lists implemented by other nations that participate in those multilateral regimes, such as the United States Commerce Control List (US CCL).

Dual-use items include goods, software and technology that may be used for both civilian and military purposes. Export, transfer or brokering of these items and, in certain cases, the provision of related technical assistance are controlled under the Dual-Use Regulation and are only permitted under license.

Prior to 2009, the EU institutions (EU Council and EU Commission) updated the EU Dual-Use List annually reflecting year-on-year amendments agreed by parties to the international control regimes. Following the adoption of the Lisbon Treaty (the Treaty that currently governs the EU institutions) in 2009, the EU was obliged to include the European Parliament in this revision process. The required legislation to include the European Parliament took considerable time. As a result, the EU needed to adopt a large number of amendments to the EU Dual-Use List, corresponding to the 2009 and 2010 changes in the international control regimes. Regulation 388/2012 implements all of these amendments.

The EU Commission anticipates that the EU will incorporate the 2011 changes to the international control regimes by the end of 2012. This will bring the EU Dual-Use List fully up-to-date with the international regimes and with the US CCL, which has been updated more frequently.

## MOST RELEVANT AMENDMENTS OF THE EU DUAL-USE LIST

Regulation 388/2012 introduced over 200 amendments to the EU Dual-Use List, including (i) de-controls on certain specified items, (ii) new controlled items and new definitions, and (iii) changes to goods descriptions and definitions.

Most of the amendments were driven by updates of the Dual-Use Goods & Technologies and Munitions List of the Wassenaar Arrangement. The 2009 Wassenaar Arrangement updates concerned items listed in the area of information security (encryption) and reception equipment for Global Navigation Satellite Systems (“GNSS”). The 2010 Wassenaar Arrangement updates focused largely on commercial developments related to counter-terrorism. A comprehensive overview of the amendments included in Regulation 388/2012 is provided in the [Summary Note](#) published by the EU Commission.

The amendments include a range of changes to the EU’s approach to encryption controls, computers (de-controlling certain computers specially designed for civil aircraft), telecommunications devices, and various other items. In some areas (such as encryption), the changes result in a lowering of controls, whereas in other cases the Dual-Use List’s entries have either been clarified or expanded.

Companies that export, transfer, broker or provide technical assistance related to the items listed on the EU Dual-Use List should review the List and the recent revisions carefully, and evaluate whether the changes result in the de-control of any of the company’s products, or impose new export licensing requirements.

## NEW EU SANCTIONS AGAINST SYRIA

As part of its continuing pressure on the Assad regime, the EU has adopted three new Regulations adding new restrictive measures and designated parties to the Syria sanctions framework.

**Regulation 509/2012** amended Regulation 36/2012 concerning [EU sanctions against Syria](#). It imposed a prohibition on the sale, supply, transfer or export, directly or indirectly, to Syria of certain dual-use items listed in Annex I to the EU Dual-Use Regulation (Regulation 428/2009) and certain additional chemicals. The items subject to the prohibition are now listed on Annex Ia to Regulation 36/2012 and include: protection and detection equipment such as gas masks and protective suits; chemical manufacturing facilities such as reaction vessels and storage tanks; chemicals that may be used as precursors for toxic chemical agents; and human, animal and plant pathogens (*i.e.*, certain viruses, bacteria and toxins.)

Regulation 509/2012 also imposed a prohibition on the sale, supply, transfer or export, directly or indirectly of luxury goods which are now listed in Annex X to Regulation 36/2012. These goods include: caviar, truffles and cigars; certain wines and spirits; certain leather goods, garments and shoes; jewelry, gems and pearls; tableware, clocks and watches; lead crystal glassware; and luxury vehicles, planes and boats.

Finally, Regulation 509/2012 imposed prior authorization requirement for the sale, supply, transfer or export, directly or indirectly, of a further list of dual-use items which might be used for internal repression. These items are now listed in Annex IX to Regulation 509/2012 and include: certain specified chemicals and toxins; certain specified laboratory equipment and chemical manufacturing facilities, such as certain valves or vacuum pumps; and technology and software required for the development, production or use of goods requiring authorization for export to Syria

**Regulation 545/2012** clarified the scope of the arms embargo as extending to the provision of both direct and indirect insurance and reinsurance related to the sale, supply, transport or export of military items and items which may be used for internal repression.

**Regulation 2012/544/CFSP** added the following entities to the list of designated parties subject to the asset freeze (including the prohibition on making funds and economic resources available):

- *Syrian Ministry of Defence*
- *Syrian Ministry of Interior*
- *Syrian National Security Bureau*
- *Syria International Islamic Bank*
- *General Organisation of Radio and TV*
- *Syrian Company for Oil Transport.*

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