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## **SUMMARY REPORT - Academia & Dual-Use Export Controls**

### **Summary**

On 21 November 2018, the Department of Foreign Affairs (Strategic Goods Control Unit) of the Flemish Government organised its first seminar on dual-use export controls for academia in Brussels<sup>1</sup>. The seminar was attended by over 70 experts and interested stakeholders from universities, applied research centres, federal and regional Belgian governments, the Flemish Parliament, the European Commission, and representatives from other EU Member States. The event followed a number of fruitful bilateral discussions between the Flemish government, Flemish research organisations, and the Flemish Interuniversity Council (VLIR) on specific export cases and compliance guidance tailored to the research community.

The central topic of the seminar was a discussion and exchange of views on the challenges that academic research institutions face regarding the control on the export of controlled software and technology, and the possible use or misuse of their research for conventional military purposes or weapons of mass destruction. Discussions were held on current and future export control challenges for individual researchers and research centres. Examples include the feasibility of applying traditional export control to the research community, the interpretation of exemptions for certain types of research, and the granting of government funding for Research & Development that could lead to military applications.

### ***The Brussels seminar on dual-use export controls for academia (21 November 2018)***

A momentum is building up on the topic of dual-use export controls for academia. On the one hand, the proposal of the European Commission for the modernisation of the EU export control system and subsequent negotiations in the European Parliament and Council has triggered the League of European Research Universities (LERU) to publish a position paper on recommendations to clarify, update and harmonise export controls that impact academic activities. On the other hand, export control authorities from different EU Member States are stepping up their efforts to reach out to the academic sector by means of outreach and awareness raising events, as well as issuing tailored compliance guidance. The recent efforts of the European Commission to consult industry at large on the draft guidance for Internal Compliance Programmes has sparked the attention of some actors in the European academic world to respond and indicate the need to further finetune compliance guidance for the academic sector as well, to increase the usefulness of such guidance. Finally, EU Member States

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<sup>1</sup> The agenda of the event can be consulted on <https://www.fdfa.be/en/academia-dual-use-export-controls-21-november-2018-brussels>

initiatives such as the 2017 Berlin Conference on Export Controls and Academia and this Brussels seminar, indicate the increased dialogue between academia and competent authorities on dual-use export controls.

In the session ‘Main principles of dual-use export controls and impact on academic research’, **Dr. Johan Evers** (Strategic Trade Controls Unit) detailed ***the scope of dual-use controlled items and controlled activities*** as set out by Regulation (EC) N° 428/2009, elaborated on additional measures Flanders adopted on technical assistance, and highlighted the support it offers to assist individual researchers and research organisation in, for instance, item classification and transaction screening. He explained the particular export control modalities relating to exports of “technology” and the Flanders approach to the exemptions foreseen in the dual-use Regulation such as the concepts of “basic scientific research” and “in the public domain”.

**Prof. Dr. Johan De Tavernier** (Katholieke Universiteit Leuven) then turned to the ***dual-use export control measures for academic activities*** that KU Leuven has developed and implemented over the past years. He explained how since 2014 the Ethics Commission for dual-use of research provides advice on research proposals with dual use potential of the (future) research output<sup>2</sup>. As the chair of the VLIR ad-hoc Working Group on Dual-Use he explained the ***tailored compliance brochure for the Flemish research community*** (published in December 2017).<sup>3</sup> This compliance brochure focuses on awareness raising and practical tools relating to dual-use research and misuse of research.

**Ms. Claire Gray** from the League of European Research Universities (LERU), a network of 23 leading research-intensive universities based in 12 European countries, gave an overview of the ***8 recommendations addressing specific elements of the Commission proposal for the modernisation of EU export control system***, in order to make the revised Regulation workable for universities. These 8 recommendations focus on legal clarity and the wish for additional practical tools, such as a searchable database of listed dual-use items, and tailored export control guidance to avoid that research projects are unduly delayed.

**Prof. Dr. Quentin Michel** (Université de Liège) gave an overview of the concepts “basic scientific research” and “in the public domain” stemming from the export control regimes. Additionally he raised in his presentation the important ***tension between fostering research collaboration via public funding*** (such as Horizon 2020) ***and scrutinising research output of concern via export controls***. He described the Ethics Appraisal Procedure under Horizon 2020 and the challenges this poses for researchers and export control authorities.

After the keynote speeches, 2 panel discussions followed.

In the first panel ‘Export control challenges for universities’, **Dr. Katleen Janssen** (Katholieke Universiteit Leuven), **Ms. Marianne De Voecht** (Universiteit Antwerpen), and **Dr. Roberto Soprano, on behalf of Mr. John Pearson** (Vrije Universiteit Brussel) - all experienced export control practitioners from Flanders and Brussels based universities - took part. They detailed the organisational structure for export control in their institutions and explained the challenges concerning the identification of possible controlled technology, the application (and interpretation) of exemptions for certain types of software and technology and the intra-university challenges for a top-down export control awareness.

The second panel ‘Export control challenges for applied research centres’ was formed by **Ms. Beatrijs Thomas** (IMEC), **Dr. Branislav Aleksic** (Fraunhofer-Gesellschaft), and **Dr. Christos Charatsis** (Joint

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<sup>2</sup> [https://set.kuleuven.be/ethicsatarenberg/expertise-center-ethics-arenberg-1/copy\\_of\\_dual-use/dual-use](https://set.kuleuven.be/ethicsatarenberg/expertise-center-ethics-arenberg-1/copy_of_dual-use/dual-use)

<sup>3</sup> [https://www.fdfa.be/sites/default/files/atoms/files/2017VLIR003\\_FolderOnderzoek\\_EN\\_DEF\\_20180212.pdf](https://www.fdfa.be/sites/default/files/atoms/files/2017VLIR003_FolderOnderzoek_EN_DEF_20180212.pdf)

Research Centre, European Commission). From an applied research viewpoint, they challenged the practical usefulness of the general ICP guidance currently being finalised by the Commission. For instance, the guidance on top-level management commitment to compliance does not fit the often decentralised organisation of research divisions within a research centre. They further emphasised the lack of public denied party lists or watch lists in the EU, different interpretations between Member States concerning 'deemed export' or the exemption for "basic scientific research", and the challenge of implementing effective controls for transferring intangible items.

### ***What is next?***

Three main conclusions can be drawn from the discussions in Brussels.

- Firstly, **knowledge about dual-use export controls in the research community cannot be taken for granted**. The academic sector traditionally focuses on the export control exemptions "basic scientific research" and "in the public domain". The Flanders approach illustrates that more awareness raising about the scope of controlled items and activities (rather than on the exemptions) is useful to ensure that the researchers and institutions recognise possible dual-use research output. A proactive and open-dialogue approach furthermore encourage universities and research centres to come forward with technical questions.
- Secondly, **tailored guidance for internal export control compliance measures** is needed. Generic ICP guidance is a useful first step but the tailoring is handled best by the academic sector itself with support from the national and EU competent authorities and drawing on good practices that exist already. Competent authorities could focus on (preferably EU wide) guidance on the interpretation of "basic scientific research" and "in the public domain".
- Thirdly, the Brussels seminar has highlighted that there are several ways to **organise dual-use export controls at intra-university level**, for instance, via ethical committees. Such an ethical committee format has its advantages and disadvantages. It is useful to continue sharing ideas and good practices with the academic sector and competent authorities about such intra-university export control settings.

This seminar was another step in the dialogue between export authorities and the research community. The exchange of viewpoints on key concepts and methods has resulted in interesting discussions. The Strategic Goods Control Unit of the Flemish government will continue this dialogue with the academic sector, and with other competent authorities in relevant European and international forums, with the aim of providing better guidance and implementation of the necessary controls. Follow-up publications and event announcements will be made via [www.fdfa.be/nl/export-van-kennistechnologie](http://www.fdfa.be/nl/export-van-kennistechnologie) (in Dutch).