

13 January 2011

Scope and review of Council Regulation (EC) No 1236/2005

Council Regulation (EC) No 1236/2005 of 27 June 2005 prohibits international trade in equipment that has no other practical purpose than its use for capital punishment, torture or other cruel inhuman or degrading treatment or punishment. Parliament's Subcommittee on Human Rights (DROI) discussed the problems in the implementation of this regulation by the EU Member States on 17 March 2010 and Parliament adopted a resolution calling for better monitoring and review of the regulation on 17 June 2010.

1. Firstly, could the Commission inform us about the time frame of the review?

Secondly, we have learnt that a supply of sodium thiopental, manufactured by a UK pharmaceutical company, was transferred to the US for use in the execution of Jeffrey Landrigan by the State of Arizona on 26 October 2010. There are reports that a number of US States are seeking supplies of sodium thiopental or similar anaesthetic drugs for use in the execution of human beings. In our view, the export of the drug in question for its exclusive use in the execution of human beings falls under Annex II of the list of goods designed for the execution of human beings, as it is an intrinsic part of automated drug injection systems.

2. Does the Commission agree and could the Commission give reasons for its answer?

Should the Commission consider that sodium thiopental or an equivalent drug falls out of the scope of Annex II, we would like to ask the following:

3. What kind of an update the Commission plans to recommend to the Member States in order to avoid EU companies being implicated in assistance to capital punishment, which is the original purpose of the regulation?

4. Thirdly, will the Commission immediately provide greater clarity by adding an explicit reference to anaesthetic drugs such as sodium thiopental in Annex III? This would ensure that their transfer for legitimate medical purposes would be allowed, but that their use for judicial execution would be prohibited.

5. We believe this case illustrates the limitations of list-based controls and the utility of a so-called 'end use catch-all clause'. Will the Commission confirm that proposals are being prepared to amend the regulation itself to include a 'catch-all' clause, and give further indications on when these proposals will be presented to the Committee on Common Rules, the Council and Parliament.

6. Lastly, should the Commission agree with us that the export, directly or indirectly, by a UK pharmaceutical company of sodium thiopental, or an equivalent drug, to the US to be used in

the execution of prisoners sentenced to death violates the regulation, how does the Commission intend to put a stop to the ongoing violation?