



**Permanent Mission of the Republic of Bulgaria
to the United Nations, the OSCE and other International Organisations**

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NOTE VERBALE

The Permanent Mission of the Republic of Bulgaria to the UN, the OSCE and Other International Organisations presents its compliments to the Permanent Missions and Delegations of all participating States to the OSCE and to the Conflict Prevention Centre and, in accordance with the FSC.DEC/20/95, has the honour to enclose herewith the “Questionnaire on Participating States’ Policy and/or National Practices and Procedures for the Export of Conventional Arms and Related Technology” for the year 2019.

The Permanent Mission of the Republic of Bulgaria to the UN, the OSCE and Other International Organisations avails itself of this opportunity to renew to the Permanent Missions and Delegations of all participating States to the OSCE and to the Conflict Prevention Centre the assurances of its highest consideration.

**ALL PERMANENT MISSIONS AND DELEGATIONS OF
THE OSCE PARTICIPATING STATES**

THE OSCE CONFLICT PREVENTION CENTRE

VIENNA



REPUBLIC OF BULGARIA
QUESTIONNAIRE ON PARTICIPATING STATES' POLICY AND/OR NATIONAL
PRACTICES AND PROCEDURES FOR THE EXPORT OF CONVENTIONAL ARMS AND
RELATED TECHNOLOGY

(with reference to FSC. DEC/20/95 from 29 November 1995)

1. Their basic principles, policies and/or national practices on the export of conventional arms and related technology

While shaping its national policy, national practices and procedures related to the exports of conventional arms and related technology, the Republic of Bulgaria takes into consideration the legitimate security needs of states, the OSCE principles governing conventional arms transfers, relevant EU documents under the EU Common Foreign and Security Policy (CFSP) and the Initial Elements of the Wassenaar Arrangement. The Republic of Bulgaria complies with restrictive measures, including arms embargoes adopted by the United Nations Security Council, the Council of the EU and the OSCE

The Bulgarian export control legislation covers manufacturing (including proper marking and record keeping), trade (national and international), border and customs control.

Arms production, transfers and holdings are in line with respective national defence and security needs, taking into account legitimate requirements related to national and collective defence, internal security and participation in peacekeeping operations.

Foreign trade activities in arms are subject to state control aiming to ensure that international obligations of the Republic of Bulgaria are fulfilled, international peace and security is strengthened, as well as national security, economic and political interests of the country are protected.

National authorities take all necessary measures within their power to prevent illicit arms transfers to terrorist organizations and unauthorized physical or legal persons.

2. Their national legislation governing export of conventional arms and related technology

Initially laid out in 1995-1996, the modern legislative framework of today's export control regime is subject of continuous changes. These changes are the outcome of regular scrutiny aiming to take into account contemporary developments and challenges in the international security environment

Following the implementation at national level of the Directive 2009/43/EU of the European Parliament and the Council of the EU simplifying terms and conditions of transfers of defence-related products within the Community, a new Law on Export Control entered into force in June 2012.

The Law of Export Control on Defence-Related Goods and Dual-use Items and Technologies (Law on Export Control/Export Control Law) and the Regulation on its

implementation, both adopted in 2012 constitute the basis of the export control system of the Republic of Bulgaria.

Current legislation reflects all relevant EU aquis in the export control area:

- The criteria and the principles in the European Union's Code of Conduct on Arms Exports, transformed as of 8 December 2008 into the EU Common Position 2008/944/CFSP,
- The Common Position on the Control of Arms Brokering of 2003,
- The Council regulation 428/2009 and other related legislative documents.

Ever since its establishment, the Bulgarian export control system retains the two-tier licensing and control mechanism, introduced in 1995 whereby a company should hold an activity license in order to apply for and to perform a specific transfer (export, import, etc.).

All defence related equipment subject to control is included in the National Military List annually updated following the Wassenaar Arrangement Munitions List and the EU Common Military List.

There is also a national list of countries subject to arms embargoes and other restrictive measures (Decree No. 272/2012 of the Council of Ministers) imposed by United Nations Security Council Resolutions and other restrictive measures adopted by the EU and the OSCE.

3. Any international agreements or guidelines, other than OSCE commitments, covering the export of conventional arms to which they are party

The Republic of Bulgaria adopts and implements all UNSC resolutions and relevant EU Council decisions imposing arms embargoes as well as any other related restrictive measures with regard to arms transfers.

In 2005, the EU Code of Conduct on Arms Exports became part of the Bulgarian Export Control Legislation.

In December 2009, the republic of Bulgaria made the necessary legislative changes in order to ensure full compliance with the EU legislation in particular with regard to the eight criteria and related rules and procedures as set out in the EU Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment.

Since 2007, after becoming an EU member state, the Republic of Bulgaria is regularly attending the sessions of the EU Working Party on Conventional Arms exports, while exchange information on different sensitive destinations and elaborating on various national export control practices.

The Republic of Bulgaria is a member of all international export control regimes including the Wassenaar Arrangement and the Missile Technology Control Regime.

4. The procedures for processing an application to export conventional arms

The activity license (an authorization for performing trade in arms) is issued by the Inter-Ministerial Council on Defence Industry and Security of the Supplies under the

Council of Ministers (the Government). The activity license provides for the right of conducting foreign trade in or transporting defence related goods between two third countries. It is granted to eligible entities meeting the criteria of economic stability and reliability, defined by the Law on Export Control. The license is initially granted for a period of one year and then, depending on related performance, could be issued for a three years period (article 13, paragraph 3 of the Law on Export Control). Every next licence is issued for a five years period. Brokers also need to be registered at the Inter-Ministerial Council (for conducting brokering activities with defence-related products).

The Inter-Ministerial Commission for Export Control and Non-proliferation of WMD under the Minister of Economy issues the permit for every single transfer applying the basic rule for a case-by-case consideration. This rule is applied for all types of transfers and related permits issued, i.e. export permit, import permit, transfer permit, transit permit, transportation permit, brokering permit.

Export or import of defence-related goods requires an individual or a global permit issues prior to the export licence application.

An individual permit is issued for an export or an import to or from a specific state through a single delivery or through partial deliveries based on contracts and/or agreements between the exporter or the importer and the foreign counterpart. The permit is valid up to one year and may be extended once for a period of up to six months.

A global permit is issued for an export or an import, to exporters or importers respectively, for one or more states according to the Annex of the Law on Export Control, of a specific type or category of defence-related goods. The permit issued is valid up to two years and may be extended once for a period of up to one year.

Transfer from the territory of the Republic of Bulgaria to the territory of another EU member state (EU MS) of defence-related goods requires prior issuance of an individual or global transfer permit. It may be conducted also based on a published national general transfer permit.

An individual transfer permit is issued for the transfer of a specific quantity of defence related goods to a specific recipient in an EU MS through a single or through several partial deliveries on the basis of contractual relations between the supplier and the recipient. The individual transfer permit is valid up to two years and may be extended once for one more year.

A global transfer permit is issued for the exporting of a specific quantity of defence-related products to several recipients in one or more EU MS. The global transfer authorization is valid up to three years and maybe extended once for the same period. According to the Law on Export Control, in specific cases a national general transfer permit is issued by the Inter-Ministerial Commission and published on the web page of the Ministry of Economy.

The Inter-Ministerial Council issues a recipient certificate in case when a physical or legal person meets the specific requirements of the Export Control Law. The certified persons may receive defence related goods specified in the general transfer permit issued and published by the EU MS of origin after declaring the transfer at the Ministry of Economy.

Brokers are required to apply for a brokerage permit for each brokering transaction. The permit for a brokering transaction is issued for a period of up to one year and may be extended for up to six months.

5. Lists of conventional weaponry under national export controls and the basis for their control

The National Military List of defence related goods subject to control is identical with to the EU Common Military List and is the subject of a regular update.

6. Principles and national regulations on the destination or end-user of the equipment. Is there a complete *erga omnes* system or a published list of:

- destinations of concern?

Regarding destinations of concern, related EU practices are followed, i.e. the criteria of the EU Common Position 944/2008/CFSP on arms exports is applied including the procedures prescribed in its User's Guide. There is no additional national list of destinations of concern. However, outreach to industry events are used for conveying and sharing relevant information about recent developments in the area of export control including destinations of concern.

- embargoed countries?

The Republic of Bulgaria maintains a national list of restricted destinations, namely a List of countries and organizations towards which Bulgaria applies embargoes and restrictions (Decree No. 272 of the Council of Ministers). The list is regularly updated in accordance with related UN Security Council Resolutions and decisions of the EU Council and the OSCE.

- differentiation between destinations (e.g., is there any preferential treatment of (groups of) countries)?

The licensing requirements are uniform for all cases of arms exports, regardless of the destinations. However, in certain cases the licensing authorities may require additional information and documents: f. i. ECOWAS exemption certificate issued in accordance with Art. 5 and 6 of the ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials.

7. Requirements for the provision of an end-user certificate in an export license application, any non-re-exportation clauses, or any other type of certification before and/or after delivery for conventional arms and related technology.

Applicants for permits for specific transfers are required to submit an original of an End-User Certificate (EUC). Its authenticity may be a subject of a verification procedure through various channels including diplomatic ones. The elements of the EUCs are fully

in line with the Wassenaar Arrangement Assurance List and the best practices, enumerated in the User's Guide to the EU Code of Conduct on Arms Exports contained in the EU Council Common Position 2008/944/CFSP.

For a due verification of the compliance of the foreign end-user with the obligations undertaken, instruments like post-shipment verifications, on-site inspections and checks through diplomatic channels are part of the Bulgarian export control legislation and practices. Initially demanded upon request, nowadays, as a precondition, all applicants are required to provide a Delivery Verification Certificate (DVC), issued by the competent authorities of the country of final destination. Denials to export applications may be issued or license may be revoked when deemed necessary.

8. National definition of transit and transshipment (including free zones) of conventional arms together with associated national legislation and compliance procedures.

Transit of arms is defined as passing through the territory of the country, including reloading and transshipment from one vehicle (or other means of transport) to another. Export from free zones is limited. Customs clearance for arms transfers is provided by a limited number of customs offices, specialized in performing related customs services.

Transit and transshipment of arms are subject to licensing on a case-by-case basis. The procedure and documents required are described in the Law on export Control and the Regulation of its implementation.

9. The exporter's obligations to seek official governmental authority to enter into contract negotiations or to sign contracts with foreign customers.

Companies possessing activity license may enter into negotiations and sign contracts without prior governmental approval. Traders are however advised to include a clause in contracts stating that related agreements enter into force only upon approval by the competent Bulgarian authorities. They are also encouraged to seek advice, information and preliminary opinion both formally and informally from the licensing authority and/or the competent institutions on each particular case.

10. The policy on revocation or suspension of export license once they have been approved.

Activity authorization may be **suspended** in cases of: 1) non-compliance with the terms and conditions of the authorization, or 2) non-compliance with the requirements for reliability and economic stability, or 3) non-fulfilment of obligations as an authorized person. The authorization may be **revoked** in case of circumstances contrary to the purposes of export control as stipulated by the Law on Export Control or where the applicant has previously presented fake documents or facts that served as a basis for issuing the license. The decision to withdraw a license is valid for two years, during which the respective persons do not have the right to apply for a new one.

In all cases mentioned above, a granted export license (permit) is subject to revocation since related activity authorization is suspended or revoked.

11. The penal, financial and/or administrative implication for exporter failing to comply with national controls.

According to Art. 72 of the Law on Export Control on Defence-related Products and Dual-use Items and Technologies, persons who engage in export, import, transfer, brokering services, transportation and/or transit of defence-related products and of dual-use items without the respective license, registration or authorization are sanctioned with a fine from 1000 up to 500 000 BGN (1 EUR = 1,955 BGN).

According to Art. 233 of the penal Code of the Republic of Bulgaria, a person who without the relevant license, registration or permit exports, imports, transits, acts as a broker in transactions with defense-related goods or dual-use items or technologies, as well as where such activities are carried out in breach of prohibition, restrictions or sanctions, imposed by the United Nations Security Council, by the OSCE or by the EU, specified in a decree of the Council of Ministers or stemming from international agreements to which the Republic of Bulgaria is a party, are punished by imprisonment for up to six years and by a fine of up to 200 000 BGN. For particularly grave cases the punishment is imprisonment for a period from three to eight years and a fine of up to 500 000 BGN.

According to Art. 337 of the Penal Code of the Republic of Bulgaria a person who manufactures, processes, repairs, develops, stores, trades in, transports, imports or exports explosives, firearms, chemical, biological or nuclear weapons or ammunition without having the right to do so by the law, or without license from the respective government body, or does so not in compliance with the license given to him, is punished by imprisonment for a period from one to six years.

12. Any circumstances in which the exports of conventional arms do not require an export license.

An exemption from a licensing procedure is foreseen for exports related to:

- International treaties and agreements or from the membership in international organizations;
- Participation in peace promoting, peace keeping or peace building operations;
- Participation in international military exercises or humanitarian or sports events.

13. Licenses for temporary export (e.g. demonstrations or testing), the period allowed and any special conditions attached to the license, including verification of return procedures.

No exemptions from the individual procedures are provided in the Export Control Law for demonstrations and testing, only a simplified procedure for participation in defence exhibitions.

In case of temporary exports, two licenses are issued: one for the export procedure and one for the reverse import procedure. Verification of return procedure is considered accomplished at presentation of the licenses to the issuing authority (upon completion of the relevant procedures), which is an obligation of the exporter.

14. License documents and any standard conditions attached to the license (copy to be provided).

Following Annexes to the Export Control Law on are available at the web page of the Inter-Ministerial Commission (www.exportcontrol.bg):

- Annex1 (http://www.exportcontrol.bg/docs/Obrazec_1.doc)
- Annex 7 (http://www.exportcontrol.bg/docs/Obrazec_7.doc)
- Annex 9 (http://www.exportcontrol.bg/docs/Obrazec_9.doc)
- Annex 10 (http://www.exportcontrol.bg/docs/Obrazec_10.doc)
- Annex 11 (http://www.exportcontrol.bg/docs/Obrazec_11.doc)
- Annex 12 (http://www.exportcontrol.bg/docs/Obrazec_12.doc)
- Annex 13 (http://www.exportcontrol.bg/docs/Obrazec_13.doc)
- Annex 14 (http://www.exportcontrol.bg/docs/Obrazec_14.doc)
- Annex 15 (http://www.exportcontrol.bg/docs/Obrazec_15.doc)
- Annex 16 (http://www.exportcontrol.bg/docs/Obrazec_16.doc)
- Annex 18 (http://www.exportcontrol.bg/docs/Obrazec_18.doc)
- Annex 19 (http://www.exportcontrol.bg/docs/Obrazec_19.doc)
- Annex 20 (http://www.exportcontrol.bg/docs/Obrazec_20.doc)
- Annex 21 (http://www.exportcontrol.bg/docs/Obrazec_21.doc)
- Annex 22 (http://www.exportcontrol.bg/docs/Obrazec_22.doc)
- Annex 23 (http://www.exportcontrol.bg/docs/Obrazec_23.doc)
- Annex 24 (http://www.exportcontrol.bg/docs/Obrazec_24.doc)

15. Different types of license (e.g. individual, general, restricted, full, permanent, temporary, etc.) and what they are used for.

The activity license (authorization) is issued by the Inter-Ministerial Council on Defence Industry and Security of Supplies under the Council of Ministers and provides for the right to conduct foreign trade in or to transport defence related goods between two third countries.

The licenses for each particular transaction are defined as individual or global permit. An individual permit is issued for export or import to or from a specific state through a single delivery or through partial deliveries on the basis of contractual relations between the exporter or the importer and the foreign counterpart. A global permit is issued for export or import, to exporters or importers respectively, for one or more states according to the Annex of the Law on Export Control, of a specific type or category of defence-related goods.

16. Advice given to exporters as to licensability, such as the likelihood of approval for a possible transaction.

Advice is given to exporters through outreach activities, web-sites and informal consultations.

17.The average number of export licences issued annually and the staff engaged in the export licensing procedure.

The annual number of licenses for 2019, including temporary exports of arms will be available on the following link after the publication by the Inter-Ministerial Commission`s Annual Report for 2019:

<http://www.exportcontrol.bg/Modulbg.php?lang=bg&id=2263>

18.Any other relevant information pertaining to the export of conventional arms and related technology.

The annual reports of the Inter-Ministerial Council and the Inter-Ministerial Commission are presented and submitted for approval to the Council of Ministers and the Parliament. They are publicly available at the web-site of the Bulgarian Ministry of Economy. In addition, the Bulgarian arms transfers data is incorporated into the EU Annual Report on arms transfers which is published in the EU Official Journal .

19.Are all guidelines governing the export of conventional arms transfers nationally published?

All guidelines governing conventional arms transfers in the Republic of Bulgaria are officially published at the web page of the Ministry of Economy (www.mi.government.bg) and the web page of the Inter-Ministerial Commission (www.exportcontrol.bg).

Sofia, June 23rd , 2020