



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

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NOTE VERBALE

The Permanent Mission of the Republic of Bulgaria to the UN, the OSCE and other International Organizations in Vienna presents its compliments to all Permanent Missions and Delegations to the OSCE, and to the Conflict Prevention Centre, and in accordance with the Forum for Security Cooperation Decisions 13/97, 8/98 and 8/08 has the honour to provide herewith the Information Exchange on Conventional Arms Transfers for the year 2017.

The Permanent Mission of the Republic of Bulgaria to the UN, the OSCE and other International Organizations in Vienna avails itself of the opportunity to renew to all Permanent Missions and Delegations to the OSCE and the Conflict Prevention Centre the assurances of its highest consideration.

Encl.

**To
All Permanent Missions and Delegations to the OSCE
The Conflict Prevention Center**

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

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), and border and customs control.

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

Foreign trade activities in arms are subject to state control aiming to ensure that the international obligations of the Republic of Bulgaria are fulfilled, the international peace and security is strengthened, as well as national security and 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 and subsequently amended in 2002, the modern legislative framework of today's export control regime is subject of continuous ongoing changes aiming to take into account contemporary changes 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 defense-related products within the Community, a new Law on Export Control entered into force in June 2012.

The Law of Export Control on Defense-related Products and Dual-use Items and Technologies (Law on Export Control) and the Regulation on its implementation, both adopted in 2012, serve as the basis of the export control system of the Republic of Bulgaria. The current legislation reflects all relevant EU aquis in the sphere of export control, including the criteria and the principles stipulated in the European Union Code of Conduct on Arms Exports later transformed as of 8 December 2008 into EU Common Position 2008/944/CFSP of 8 into December 2008, the Common Position on the Control of Arms Brokering of 2003, 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 for a specific type of transactions with defence related products (export, import, transfer, brokering) and a permit for every single transaction .

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

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 adopted by the European Union 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 was incorporated into the Bulgarian export control legislation and thus became a legally binding instrument in arms trade. As of December 2008, in its export-control policy Bulgaria abides by the rules and procedures set out in the EU Common Position 2008/944/CFSP, which replaces the EU Code of Conduct. In December 2009, Bulgaria has made the necessary legislative changes in this regard in order to ensure compliance with the EU legislation.

Since 2007, Bulgaria regularly participates in the sessions of the EU Working Group on Conventional Arms, where partner nations exchange information about different sensitive destination and various national export control practices.

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 (trade in arms authorization) is issued by the Interdepartmental Council on Defense Industry and Security of the Supplies under the Council of Ministers (the Government). The license provides for the right of conducting foreign trade in or transporting defence-related products between two third countries. It is granted to eligible entities meeting the criteria of economic stability and reliability, defined by the Law. The license is initially granted for a period of one year and every next licence is issues for a period of five (5) years (article 13, paragraph 3 of the Law on Export Control). Brokers also need to be registered at the Interdepartmental 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 goes for all types of permits issued, i.e. export permit, import permit, transfer permit, transit permit, transportation permit.

Export or import of defense-related goods may be done only after an individual or a global permit is issued by the Inter-Ministerial Commission.

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 defense-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 defense-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 defense-related products to a specific recipient in a member-state 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 transfer of a specific quantity of defense-related products to several recipients in one or more member-states. 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 Interdepartmental 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 defense-related products 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, the 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, Industry-Administration outreach events are used for conveying and sharing relevant information about recent developments in the sphere of export control including destinations of concern.

- Embargoed countries?

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 CoM). The list is regularly updated in accordance with the 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 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 duly incorporated in the Bulgarian export control legislation and practice. At its discretion and depending on the specific case The Inter-Ministerial Commission for Export Control and Non-proliferation of WMD may require 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. There is a list of customs offices authorized to provide customs clearance for arms transfers.

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 position 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 LECADUIT or where the applicant has previously presented fake documents or false facts which have served as a basis for issuing the license. The decision to withdraw a license is valid for up to 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 permit is subject to revocation when the 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 Defense-related Products and Dual-use Items and Technologies, persons who engage in export, import, transfer, brokering services, transportation and/or transit of defense-related products and of dual-use items without the respective license, registration or authorization are sanctioned with a fine 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 licensing procedure is foreseen for exports related to:

- International treaties and agreements or from the membership in international organizations;
- Participation in peace-enforcing, peacekeeping or peace-sustaining operations;
- Participation in international military exercises or humanitarian, sports, or demonstration 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 procedures 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):

- Annex 1 (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 Defense 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 (permits) for each particular transaction are 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 defense-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 2017 is 1017 (export, import and outgoing transfer). Personnel directly involved in licensing activity amounts to 40.

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 2018