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NOTE VERBALE

The Permanent Mission of Ireland to the Organisation for Security and Co-operation in Europe (OSCE) presents its compliments to the Permanent Missions and Delegations to the OSCE and to the Conflict Prevention Centre, and has the honour to submit the Information Exchange on Conventional Arms Transfers for 2017.

The Permanent Mission of Ireland to the OSCE avails itself of this opportunity to renew to the Missions/Delegations of the Participating States to the OSCE and to the CPC the assurance of its highest consideration.



Vienna, 30 July 2018

To: The Permanent Missions and Delegations of all OSCE States.
Director, Conflict Prevention Centre, Vienna.

**Questionnaire on Participating States' Policy and Procedures
for the Export of Conventional Arms and Related Technology**

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

It should be noted that Ireland does not have an indigenous arms industry.

Exports of military goods from Ireland are subject to licensing requirements in accordance with national legislation.

2. Their national legislation governing the export of conventional arms and related technology. If applicable, report changes and/or updates to the data provided in 1995, including any relevant subsidiary legislation.

Ireland's export controls are implemented on the basis of a Ministerial Order pursuant to the Control of Exports Act, 2008. The Control of Exports (Goods and Technology) Order 2012 which came into force on 29 June 2012 lists the specific military goods that are prohibited from export to a third country unless in accordance with an export authorisation granted by the Department of Jobs, Enterprise and Innovation.

The European Communities (Intra-Community Transfers of Defence Related Products) (Amendment) Regulations, as amended, provides for simplified terms and conditions for the transfer of specific military goods within the EU.

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

Ireland participates in the Wassenaar Arrangement, which controls the export of dual-use items and technologies, as well as military goods.

Export applications in respect of conventional arms are assessed against Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment.

Ireland is also party to the set of principles governing conventional arms transfers, which was adopted by the OSCE in November 1993.

Ireland ratified the Arms Trade Treaty in April 2014.

4. The procedures for processing an application to export conventional arms and related technology: who is the issuing authority; what other authorities are involved and what is their function; and, who deals with compliance?

The Export Licensing Unit within the Department of Jobs, Enterprise and Innovation is the national authority responsible for issuing military export licences for all military goods and technology listed in the Control of Exports (Goods and Technology) Order 2012 and the European Communities (Intra-Community Transfers of Defence Related Products) Regulations, as amended.

Exporters are obliged to submit a military export licence application and an End Use Certificate. In cases where the country of final destination is another EU Member State, an

International Import Certificate is acceptable in place of an End Use Certificate. This documentation, together with any other relevant information available, is provided to the Department of Foreign Affairs and Trade for assessment of foreign policy, security, human rights and non-proliferation considerations. Other Departments or Agencies of the State may also be consulted if this is deemed appropriate by Export Licensing Unit. The Customs authorities have operational responsibility for enforcement.

5. Lists of conventional weaponry under national export controls and the basis for their control. If applicable, report changes and/or updates to the data provided in 1995.

The Control of Exports (Goods and Technology) Order 2012 regulates exports of military items including conventional weaponry to third countries. The schedule of items listed in the Order is the EU Common Military List.

The European Communities (Intra-Community Transfers of Defence Related Products) Regulations, as amended, provide for simplified terms and conditions for the transfer of goods on the EU Common Military List, including conventional weaponry within the EU.

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

All export licence applications for military items are assessed on a case-by-case basis in consultation with the Department of Foreign Affairs and Trade. All applications are assessed having regard to EU and international sanctions and Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment.

7. Requirements for the provision of an end-user certificate in an export licence application, or of non-re-exportation clauses, or of any other type of certification before and after delivery for conventional arms export contracts. If applicable, please specify any verification of the end-user certificate and/or non-re-exportation clauses before and after delivery.

It should be noted that Ireland has no indigenous arms industry. As a matter of policy, End-User Certificates are always required to accompany an export licence application for military items (where the country of final destination is another EU Member State, an International Import Certificate is acceptable in place of an End Use Certificate). There is no requirement for certification of delivery.

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

Transit:

There are three types of Transit:

- (1) **Community Transit:** allows for the movement of goods within the customs territory of the Community;

- (2) **Common Transit:** allows for the movement of goods: between the Community, the EFTA Countries (i.e. Iceland, Norway, Switzerland and Liechtenstein) and between the EFTA Countries themselves;
The combined territories of the Community, and the EFTA Countries are known as the Common Transit Area, and
- (3) **TIR: (Transport Internationaux Routiers)** allows for the movement of goods internationally over one or more frontiers and where some portion of the journey between the start and end of the TIR operation is conducted by road.

Legislation applying to Transit

The principal legislation governing Community Transit and Status is contained in:

- (1) Council Regulation (EEC) No. 2913/92 (OJ L302 of 19/10/92)
http://europa.eu.int/eur-lex/en/consleg/pdf/1992/en_1992R2913_do_001.pdf:and
- (2) Commission Regulation (EEC) No. 2454/93 (OJ L 253 of 11/10/93)
http://europa.eu.int/eur-lex/en/consleg/pdf/1993/en_1993R2454_do_001.pdf.

The legislation governing Common Transit is contained in the Convention between the European Economic Community and the EFTA Countries on a Common Transit Procedure (OJ No. L226 of 13/8/87)

[http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:21987A0813\(01\):EN:HTML](http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:21987A0813(01):EN:HTML)

The principal legislation governing TIR is the TIR Convention 1975.

http://www.unece.org/trans/bcf/tir/handbook/english/newtirhand/TIR-6Rev1EN_Convention.pdf

Transshipment: The customs procedure under which goods are transferred, under customs' control, from the importing means of transport to the exporting means of transport within the area of one customs office, which is the office of both importation and exportation.

- 9. The procedures governing companies wishing to export arms. Are companies obliged to seek official governmental authority to enter into contract negotiations or to sign contracts with foreign customers?**

There is no legal obligation on companies to seek official Government authorization to enter into contract negotiations or to sign contracts for foreign customers. However, it should be noted that Ireland has no indigenous arms industry.

- 10. Policy on the revocation of export licences once they have been approved; please list any published regulations.**

Under Section 6 of the Control of Exports Act, 2008, the Minister has the power to revoke an export licence that has issued.

<http://www.oireachtas.ie/documents/bills28/acts/2008/a0108.pdf>

- 11. The penal and administrative implications for any exporter failing to comply with national controls. If applicable, report changes and/or updates to the data provided in 1995.**

Under Section 8 of the Control of Exports Act 2008, a person who commits an offence is liable:

- i. On summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 6 months, or to both, or
- ii. On conviction on indictment:
 - (I) to a fine not exceeding the greater of €10,000,000 or, where relevant, 3 times the value of the goods or technology concerned in respect of which the offence was committed, or
 - (II) to imprisonment for a term not exceeding 5 years,or to both such fine and such imprisonment.

12. Any circumstances in which the export of arms does not require an export licence.

The Control of Exports (Goods and Technology) Order 2012 does not apply to the exportation:

- (a) of any goods or technology, or both, specified in the Schedule by the Permanent Defence Force or the Garda Síochána -
 - (i) for use by an International United Nations Force in the course of its duties as such,
 - (ii) for the purposes of such goods or technology, or both, being repaired, overhauled, refitted, modified, tested or maintained, and returned to the State,
 - (iii) for the purposes of such goods or technology, or both, being used at international military competitions, or
 - (iv) for the purposes of the testing of munitions,
- (b) of privately owned pistols, revolvers, rifles, carbines, shotguns and other smoothbore weapons, silencers, telescopic sights, crossbows and component parts thereof, legally imported for a period of not more than 6 months by persons resident in a third country who hold firearm certificates therefor, and ammunition therefor, not exceeding the amount shown on the document authorising their importation,
- (c) of pistols, revolvers, rifles, carbines, shotguns and other smoothbore weapons, silencers, telescopic sights, crossbows, component parts thereof and ammunition therefor, which are held by residents in the State holding firearm certificates therefor and which are being exported to a third country for use by their owners during a visit of not more than 6 months.

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

Ireland does not issue licences for temporary export of conventional arms and related technology.

14. Licence documents and any standard conditions attached to it (copies to be provided).

Web links to a Military Licence application and a template End Use Certificate for Military Goods are attached hereunder:

<https://www.djei.ie/en/publications/export-3-export-of-military-goods-licence-application-form-.html>

<https://www.djei.ie/en/Publications/End-Use-Certificate-EUC-Military-Products.html>

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

Individual export licences are available for the export of military licences. In certain circumstances global transfer licences or general transfer licences are available for the intra-community transfer of certain items pursuant to the European Communities (Intra-Community Transfers of Defence Related Products) Regulations.

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

Information and assistance is provided by the licensing authority to exporters insofar as is possible based on the information received. However, there is no process of approval in principle or pre-approval. Each licence application is assessed only after a formal application is received.

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

There are, on average, around 100 military export licences granted per annum. Nine officials within the Department of Jobs, Enterprise and Innovation are engaged in export licensing, which covers dual-use as well as military goods (three are engaged in export licensing on a part-time basis).

18/19. Any other relevant information pertaining to the export of conventional arms and related technology, e.g., additional laws, reports to Parliament, special procedures for certain goods. Are all guidelines governing conventional arms transfers nationally published?

A Report under the Control of Exports Act 2008 is published and laid before the Oireachtas (Houses of Parliament). Certain statistical information is provided in relation to exports of military goods from Ireland.

The attached link is to the latest Report covering 2015. It should be noted that as Ireland does not have an indigenous arms industry. Exports relate principally to components used in military equipment or weaponry exported for sporting or hunting usage.

<https://www.djei.ie/en/Publications/Report-under-the-Control-of-Exports-Act-2008-1-January-2015%E2%80%93December-2015.html>