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**Permanent Mission of Ukraine**  
to the International Organizations in Vienna

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The Permanent Mission of Ukraine to the International Organizations in Vienna presents its compliments to all Permanent Missions and Delegations to the OSCE and to the Conflict Prevention Centre, OSCE Secretariat, and in accordance with the FSC decision No 20/95 has the honour to submit herewith the response of Ukraine to the OSCE Questionnaire on participating States' Policy and/or National Practices and Procedures for the Export of Conventional Arms and Related Technology.

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

Vienna, 20 July 2018



**To all Permanent Missions and Delegations to the OSCE  
To the Conflict Prevention Centre,  
OSCE Secretariat**

**VIENNA**

## **Response of Ukraine to the OSCE Questionnaire on Participating States' Policy and/or National Procedures for the Export of Conventional Arms and Related Technology**

### **1. Basic principles, policies and/or national practices on the export of conventional arms and related technology.**

State policy of Ukraine in the sphere of export control, including military goods, is implemented according to the following main principles:

- priority of national interests of Ukraine;
- strict adherence to international obligations of Ukraine and state export control over international transfers of military and dual use goods as well as taking measures to avoid the use of the abovementioned goods for terrorism and other illegal purposes;
- legality;
- conduct of export control to the extent needed for the achievement of its purposes;
- harmonization of procedures and principles of export control with the international norms and practices;
- interaction with international organizations and other states in the sphere of export control.

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

The Law of Ukraine "On state control over international transfers of military purposes and dual-use goods";

the decision of The Cabinet of Ministers of Ukraine as of 20 December 2003 № 1807 "The Order of implementation of state control over international transfers of military goods";

the decision of The Cabinet of Ministers of Ukraine as of 8 June 1998 № 838 "The Regulations on the order of authorizing foreign-economic activity actors to export, import military goods and goods containing state secret information";

the decision of the Cabinet of Ministers of Ukraine as of 4 February 1998 № 125 "The Regulations of the state control on conducting negotiations related to signing international economic agreements (contracts) on international transfers of military and dual-use goods"

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

Ukraine is a member of the UN, the OSCE, the international regime of the export control Wassenaar Arrangement which establish the principles of control over transfers of conventional weapons. In accordance with its obligations Ukraine adheres to the guidelines, basic principles of activities and international agreements that lay the foundation for the control over transfers of conventional arms by these

international organizations.

#### **4. The procedures for processing an application to export conventional arms and related technology.**

These procedures include the following elements:

- pre-examination and registration of foreign-economic activity actors at the specially authorized body of executive power on issues of export control of Ukraine as entities making international transfers of goods;
- obtaining the authorisation from the Government of Ukraine to export military goods under condition that the entity making international transfers of goods has established the internal system of export control and duly certified it;
- receiving an approval document to conduct negotiations on foreign economic agreement (contract);
- a report of an entity making international transfers on results of the negotiations;
- receiving a permission to export;
- customs supervision;
- delivery goods control to end-user;
- a report of an entity making international transfers of goods on the application of the approval documents;
- verification of the use of goods with regard to declared aims;
- imposing legal sanctions to violators.

#### **5. Lists of conventional weaponry under national export controls and the basis for their control. If applicable, report changes and/or updates to the date provided in 1995, including any relevant subsidiary legislation.**

The National List of military goods, international transfers of which should be subject to state control, is adopted by the decision of the Cabinet of Ministers of Ukraine as of 20 November 2003 № 1807 with amendments approved by the decision of the Cabinet of Ministers of Ukraine as of 9 August 2017 № 596 and completely corresponds to the list of military goods of the international regime of export control Wassenaar arrangement approved at its Plenary meeting in 2016.

#### **6. Principles and national regulations on the destination or end-user of the equipment.**

The legislation of Ukraine stipulates that verification of end-user's application of imported from Ukraine goods, imported from Ukraine by a foreign-economic activity actor with written state guarantees of a foreign state authorized body concerning their application in accordance with the declared aims may be carried out if it is stipulated by the international economic agreements (contracts), in accordance with which the goods were imported from Ukraine or if the international agreements stipulate this verification to which Ukraine and the respectful state are parties.

The decision of the Cabinet of Ministers as of 27 April 1999 № 920 "The Regulations on the order of providing guarantees and executing the state control

over fulfilment of obligations on application of goods in conformity with declared aims which are subject to state export control” stipulates national procedures of state control over verification of an end-user’s application of the imported goods in Ukraine in conformity with the declared aims.

**7. Requirements for the provision of an end-user certificate in an export license 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, any verification of the end-user certificate and/or non-re-exportation clauses before and after delivery.**

In accordance with The Law of Ukraine "On state control of international transfers of goods designated for military purposes and dual-use goods" an end-user certificate is a document, with the help of which an end-user determines a place and an aim of goods end-using (placing) and guarantees that these goods will not be applied for other aims than it is provided in the certificate, will not be transferred to another actor of business activity within the territory of a country of consignment or re-export without a permission of a special state body, and also undertakes other guarantees (obligations) that are provided by the conditions of a foreign economic agreement (contract) or by the requirements of an exporting country concerning imported goods.

Processing of the end-user certificate is executed by an end-user. An end-user certificate is signed by the head of the organization and sealed by the seal of the enterprise or organisation.

An end-user certificate is processed in three copies. The first and the second copies are sent by an end-user to an importer of goods. The importer of goods sends the first copy to a foreign exporter and the second copy together with an application for import certificate or another document to the specially authorized body of executive power on issues of export control of Ukraine. The third copy stays with the end-user of the goods.

The legislation of Ukraine also envisages cases when an application on obtaining the license, conclusion or an international import certificate is left without consideration, when:

- it is given (signed) by a person, who does not have the authority for this;
- it was submitted without all required documents or processed with violations of the mentioned above requirements.

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

The Law of Ukraine "On state control of international transfers of goods designated for military purposes and dual-use goods" defines the notion "transit" – *carriage of goods from one foreign country to another foreign country over the territory of Ukraine, between two points of admission or within one point of admission over the border of Ukraine, except the cases when the property or the*

*right of possession and the right of use in accordance with adopted procedures does not come from one person to another as outcome of such carriage.*

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

According to the legislation of Ukraine companies are obliged to seek official state body of the Government of Ukraine to enter into negotiations or to sign a contract on export of arms with foreign customers.

The procedure of state export control on conducting negotiations envisages the following elements:

- receipt by a foreign-economic activity actor of conclusions of the specially authorized body of executive power on issues of export control of Ukraine concerning the possibility to conduct negotiations;
- signing by economic activity actors of contracts with foreign-economic activity actors taking into account the recommendations adopted by the decision of The Cabinet of Ministers of Ukraine on 4 February, 1998 № 125 "The Regulations of state control over conducting negotiations related to signing of the international economic agreements (contracts) of international transfers of military and dual use goods";
- submission by the entity which performs international transfers of goods of reports on results of the negotiations with foreign-economic activity actors to the specially authorized body of executive power on issues of export control of Ukraine;
- liability of foreign-economic activity actors for infringement of the adopted procedures of conducting negotiations.

**10. Policy on the revocation of export licenses once they have been approved, please list any published regulations.**

The specially authorized body of executive power on issues of export control of Ukraine can cancel or suspend license, conclusion or international import certificate which provided to such entity performing international transfers of goods or cancel its registration as an entity making international transfers of goods.

**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.**

In accordance with the legislation of Ukraine, the specially authorized body of executive power on issues of export control of Ukraine imposes fines on entities making international transfers of goods – legal persons - according to the type of violation from 100 untaxed minimums per capital income to 150% goods value, that were the subjects of relevant transfer.

Moreover, natural persons and officials that violated the legislation in the sphere of the state export control bare administrative, criminal and civil liability according to the legislation of Ukraine.

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

There are no cases in the legislation of Ukraine when a transfer of conventional arms does not require a license.

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

In accordance with the legislation of Ukraine in order to receive the conclusion on temporary export of goods an actor sends to the specially authorized body of executive power on issues of the export control of Ukraine a request with the following annexes:

- an application adopted by the specially authorized body of executive power on issues of export control of Ukraine;
- authenticated copies of the registration certificate within the specially authorized body of executive power on issues of export control of Ukraine and an explanation of the specially authorized body of executive power on issues of export control of Ukraine of the conditions for the international transfers of the goods listed in the application;
- authenticated copy of the state registration certificate of the system of internal export control established by an actor (if an actor is intent to obtain open or general license or conclusion);

Temporary export of goods for demonstration at exhibitions and fairs, advertising, test operation and for other aims is executed if there is a positive conclusion of the specially authorized body of executive power on issues of export control of Ukraine, if it does not provide transfer of property. In addition to the abovementioned documents the following document should be attached to such request:

- the document with information about the name of an exhibition or a fair, location and term of exhibiting or testing of goods etc, as well as obligations (guarantees) of import of the goods back to Ukraine without altering their quantitative and qualitative characteristics;
- the authenticated copies of documents in accordance with which the temporary export of goods is performed (an invitation for participation in the exhibition or fair, a foreign economic agreement (contract)), an agreement with a foreign partner etc), and secrecy degree certificates for the goods, which were submitted by the actor during previous examination of the goods and registration of this actor at the specially authorized body of executive power on issues of export control of Ukraine.

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

In accordance with the legislation of Ukraine, an international transfer of goods can be done by an entity making international transfers or a foreign

economic activity actor if he has the license or the conclusion of the specially authorized body of executive power on issues of export control of Ukraine.

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

The Law of Ukraine "On state control of international transfers of goods designated for military purposes and dual-use goods" stipulates that the license or the conclusion is processed by the specially authorized body of executive power on issues of export control of Ukraine as one-time, general and opened.

The license is a document provided by the specially authorized body of executive power on issues of export control of Ukraine which authorizes an entity making international transfers to export or import goods. The license can be one-time, general or open.

The conclusion is a document provided by the specially authorized body of executive power on issues of export control of Ukraine which authorizes an entity making international transfers of goods to temporary export, import or transit goods, conduct negotiations on signing foreign economic agreements (contracts) on international transfers of military application goods or export dual-use goods and other goods to states under partial embargo on transfers of such goods. The conclusion can be one-time, general or open.

One-time license or conclusion provided to an entity making international transfers of goods for conducting negotiations on signing specific international economic agreements (contracts) to exercise international transfers of goods or exercise specific transfers of goods according to the mentioned agreements (contracts). The one-time license is valid during the approved term but no longer than one year. The term can be prolonged by the specially authorized body of executive power on issues of export control of Ukraine on the basis of reasoned application of an entity making international transfers of goods, but it cannot be longer than a term stipulated by the foreign economic agreement (contract).

The general license or conclusion can be provided to an entity making international transfers of goods in case when negotiations on concluding international economic agreements (contracts) are expected to take place more than one time and when such transfers are expected to be executed to definite end-users more than once in accordance with the foreign economic agreements (contracts), which are concluded during the validity period of the license or conclusion and are valid during the specified period of time, but not longer than three years.

The open license or conclusion can be provided to an entity making international transfers of goods in case when negotiations on concluding international economic agreements (contracts) are expected to be conducted more than one time or such transfers are expected to be executed to different end-users of a specific state of consignment according to such agreements (contracts), which are concluded within the validity period of a such license or conclusion according to relevant international agreements, or in case of execution of such transfers to participating States of the international regimes of export control or to those states with regard to which a specified state policy is conducted. The general license or

conclusion is valid during a specified period, but no longer than three years.

Establishment of the system of internal export control by an entity making international transfers of goods is obligatory for providing to this entity general and open license or conclusion. This system shall be in conformity with the state export control requirements for specific international transfers of goods, proper custody of documents related to such transfers and submission of reports on actual application of the mentioned license and conclusion to the specially authorized body of executive power on issues of export control of Ukraine.

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

For promoting effectiveness of passing licensing procedures by actors, the specially authorized body of executive power on issues of export control of Ukraine initiates seminars and studies on export control issues.

Information about license procedures is regularly published on web-site of State service of export control of Ukraine [www.dsecu.gov.ua](http://www.dsecu.gov.ua).

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

The average number of license applications received by the specially authorized body of executive power on issues of export control of Ukraine is about five thousand applications per year.

**18. 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.**

According to the international obligations of Ukraine the State Service of Export Control of Ukraine, specially authorized body of executive power on issues of export control of Ukraine, regularly submits reports on export/import of conventional arms to the UN, the OSCE and to the Secretariat of Wassenaar Arrangement. Moreover, the abovementioned information is submitted to the Verkhovna Rada (Parliament) of Ukraine and published on web-site of State Service of Export Control of Ukraine [www.dsecu.gov.ua](http://www.dsecu.gov.ua).

**19. Are all guidelines governing conventional arms transfers nationally published?**

All guidelines governing conventional arms transfers are nationally published in Ukraine.