



Permanent Mission
of the Czech Republic to the United Nations,
OSCE and other International Organizations
in Vienna

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NOTE VERBALE

The Permanent Mission of the Czech Republic to the United Nations, OSCE and other International Organisations in Vienna presents its compliments to all Missions and Delegations to the OSCE in Vienna and to the OSCE Conflict Prevention Centre and, in accordance with the Decision No 20/95 of the Forum for Security Cooperation related to the "Questionnaire on Participating States Policy and-or National Practices and Procedures for the Export of Conventional Arms and Related Technology", has the honour to attach Czech Republic's replies to the Questionnaire for the year 2017.

The Permanent Mission of the Czech Republic to the United Nations, OSCE and other International Organisations in Vienna avails itself of this opportunity to renew to all Missions and Delegations to the OSCE and to the OSCE Conflict Prevention Centre the assurances of its highest consideration.


Vienna, 25 June, 2018



To the Missions and Delegations of the participating States to the OSCE
To the OSCE Conflict Prevention Centre

Vienna

132nd Plenary Meeting
FSC Journal No. 136, Agenda item 3

DECISION No. 20/95

The Forum for Security Co-operation adopted a decision regarding the Questionnaire on Participating States' Policy and/or National Practices and Procedures for the Export of Conventional Arms and Related Technology (Annex).

Questionnaire on Participating States' Policy and/or National Practices
and Procedures for the Export of Conventional Arms and Related Technology

OSCE participating States are requested to provide details of:

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

The guiding principle of the Czech Republic's policies and practices in the field of conventional arms exports is respect for the interests and international obligations of the Czech Republic. No arms can be exported to destinations covered by UN Security Council embargoes. All licence applications are processed on a case-by-case basis in order to ensure compliance with the Czech Republic's foreign policy, security and economic interests.

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.

Exports of military equipment, including conventional arms, are governed by Act No. 38/1994 concerning foreign trade in military equipment ("Foreign Trade in Military Equipment Act"). So far, this legislation has been amended several times, lastly in 2012 (the current consolidated text is available on the website of the Ministry of Industry and Trade). One of the amendments permits the Defence and Interior Ministries to import military equipment on behalf of the Czech Republic "where necessary for the purposes of defence and security of the Czech Republic, subject to the Government's decision and provided that the other contracting party is another State". The latest amendment introduced stricter eligibility criteria for legal entities seeking the permission to trade in military equipment. The Foreign Trade in Military Equipment Act is implemented by Regulation No. 210/2012 introducing relevant procedures as well as a list of military equipment, which has been annually updated based on the Annex No. 1 (EU Common Military List) to the EU Directive No. 2009/43/EC.

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

No licences can be issued for exports of military equipment to countries covered by UN Security Council embargoes. The recommendations and principles of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies are respected as well. The Czech Republic also respects its other international commitments such as those given by the EU, UN, ATT etc.

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?
- who deals with compliance?

Export licences are issued by the Licensing Office at the Ministry of Industry and Trade (“MIT”), subject to the consent of the Ministry of Foreign Affairs (“MFA”), Ministry of Interior and Ministry of Defence in cases of significant military material export. Export/Import licence applications can be filed only by legal entities holding a valid permit to trade in military equipment in terms of the Foreign Trade in Military Equipment Act. A separate licence must be sought for each individual deal.

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 list of military equipment was introduced by Regulation No. 210/2012 implementing the Foreign Trade in Military Equipment Act. It is practically identical with the EU Common Munitions List, which has been annually updated.

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

There is no published list of forbidden destinations/destinations of concern. As mentioned above, no licences can be issued for exports to destinations embargoed by the UN Security Council. Applications are processed on a case-by-case basis.

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, please specify any verification of the end-user certificate and/or non-re-exportation clauses before and after delivery.

An end-user certificate containing the anti-reexport clause and other required guarantees must be enclosed with every export licence application. The MIT Licensing Office via consultation with the MFA and other authorities, uses several strategies to verify the authenticity of documents and data.

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

Transiting or transhipped military equipment falls within the scope of the Customs Act and the Arms and Ammunition Act and is supervised by the police and customs. These shipments are not covered by the Foreign Trade in Military Equipment Act.

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?

The procedures are described in the Foreign Trade in Military Equipment Act: two-level control system comprises of general permit to conduct the foreign trade in military material plus export/import licence for each individual business case.

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

According to par. 19 of the Foreign Trade in Military Equipment Act, export licences can be revoked if:

- a. the licence has been granted on the basis of false or incomplete information,*
- b. warranted by the Czech Republic's foreign policy or security interests,*
- c. a company ceased to exist.*

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.

The administrative sanction is a fine of up to CZK 50 million imposed under the par. 25 of the Foreign Trade in Military Equipment Act. Violators who are natural persons may be sentenced to up to ten years in prison under the Criminal Code.

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

Export licences are not required if the equipment is exported for the use of the Czech Republic's army or police units deployed abroad in accordance with international agreements.

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.

Temporary export licences are also issued on a case-by-case basis. The legitimate period allowed, as well as other conditions of the licence, depend on the circumstances of each case. The licence is subject to approvals of other involved state bodies. The military material cannot be sold on such occasions.

14. Licence documents and any standard conditions attached to it (copies to be provided). Standard licensing conditions are laid down in the Foreign Trade in Military Equipment Act: End Use Certificate, signed contract relevant to a business case.

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

There are several types of licences:

outside EU: export/import licence; “brokering” licence

within EU: transfer licence – general, global individual

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

Export legislation is published in the official journal; in addition, exporters are invited to attend seminars and to consult with the Licensing Office or other competent authorities on any issues related to the licensing procedure.

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

More than 1,700 licences for foreign trade in military equipment are issued annually. The applications are handled by 4 staff members at the Licensing Office. (staff of other involved governmental bodies not included).

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.

Information on exports of conventional arms and related technologies is presented to the Czech Parliament on its request. In addition, the Licensing Office publishes an annual report on the control of trade in military equipment in the Czech Republic.

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

All guidelines governing foreign trade in military equipment are nationally published (Foreign Trade in Military Equipment Act and Regulation No. 210/2012 Sb.); website of the Licensing Office.

NB: Participating States that do not export conventional arms and related technology will so inform all other participating States.