

THE NATIONAL REPORT OF THE REPUBLIC OF BELARUS POLICY ON EXPORT CONTROLS, ARMS AND MILITARY EQUIPMENT EXPORTS IN 2001/2002

INTRODUCTION

Control over the export of arms and military equipment, specific goods and technologies either directly connected with the development of weapons or so-called “dual use”, has become a strictly regulated part of foreign policy and national security policy of a majority of developed countries. The arms export control aims at preventing an acquisition of weapons, hazardous materials and technologies by the countries and organisations that can use them to undermine regional or global security as well as for terrorist or other extremist purposes.

Preventing proliferation of nuclear, chemical, biological weapons, ballistic missiles as well as the technology of its development and its delivery means is one of the main factors to maintain stability in the world. Some countries are striving to obtain explicitly or implicitly weapons of mass destruction.

Within the world community grows an understanding that the measures to prevent the proliferation of weapons of mass destruction as well as technologies used for its development, taken by some countries, can be effective only with the international co-operation and co-ordination of efforts with the participation of all countries concerned, regardless of the difficulties of their political relations.

International groups or arrangements of states created to establish regimes to control nuclear, biological and chemical weapons, conventional arms and ballistic missiles are very active. At present there is a number of international treaties and conventions, determining the direction of such an activity. Apart from international agreements, the majority of industrialised countries have bilateral and regional agreements on implementing control measures and information exchange.

After the collapse of the Soviet Union a necessity to establish an effective system, controlling the export of specific goods and technologies in newly independent states, including Belarus, aroused. During the years of independence Belarus has gained a lot and together with Russia became a leader in the field of export controls in the CIS territory. Co-ordination on the export control issues has been reached among the interested ministries and agencies. Co-operation is increasing with the CIS countries as well as with other foreign countries.

In the Republic of Belarus the sphere of export control has undergone the period of development and entered the stage of harmonising the list of national normative and legal basis together with politically or\and legally binding international documents that regulate transfers of weapons and respective technologies.

The Republic of Belarus Law “On Export Control” was adopted in 1998. An effective normative and legal base of export control was created on its basis. In 2000 Belarus joined the Nuclear Suppliers Group that became another proof of compliance of the republic’s export control system with high world standards.

It is worthwhile to mention that Belarus eliminated much more arms and military equipment that it sold. 584 missiles were eliminated in accordance with the Treaty on the elimination of intermediate- and shorter-range missiles. According to the Treaty on conventional armed forces in Europe (CFE) the Republic of Belarus eliminated 1773 combat tanks, 1341 armoured combat vehicles and 130 combat aircrafts. It comprised more than 10 % of all weapons and military equipment, envisaged for elimination in accordance with the CFE provisions. It is almost 3 times as large as USA, Great Britain and France eliminated, taken together. Belarus had to eliminate arms and military equipment under serious economic difficulties, aggravated by the consequences of Chernobyl catastrophe. Due to the lack of financial sources the elimination of

arms and equipment was suspended for some time. Nevertheless, by May 1996 Belarus fulfilled all obligations on the reductions of arms and military equipment.

Belarus plays an active role in the strengthening of international co-operation on the development of responsible policies in the sphere of export of arms and military technologies, and on the development of effective export control procedures and the increase of transparency in this field.

While exporting weapons and military equipment Belarus is strictly abiding by the generally accepted international norms. At the same time it is conducting consistent policy in the field of disarmament, non-proliferation of weapons of mass destruction, conventional arms and military technologies.

Information on the national export control system of the Republic of Belarus is placed on the web-site of the Stockholm International Peace Research Institute (SIPRI). In April 2002 an international seminar devoted the national export control system of Belarus was held in Stockholm under the SIPRI aegis. The SIPRI representatives emphasised a high level of the republic's export control system as well as a high quality of preparation and a submission of annual information on the export and import of arms and military equipment to the UN Register on conventional arms.

INTERNATIONAL CO-OPERATION IN THE SPHERE OF EXPORT CONTROLS

In the nineties of XX century the issue of non-proliferation of weapons of mass destruction weapons started playing a significant role in international relations. There are several reasons why this issue has attracted such an attention: information that certain countries in unstable regions have displayed an interest in acquiring weapons of mass destruction; symptoms of growing interest among non-governmental players in acquisition of such weapons. The latter problem has become more important after the terrorists acts on September 11th 2001 in the USA.

The term "weapons of mass destruction" (WMD) usually refers to nuclear, chemical and biological weapons. Long-range ballistic missiles and cruise missiles are also often included in the efforts to prevent proliferation of WMD as weapon carriers. The term "non-proliferation" means multilateral measures aimed at prevention of WMD proliferation. These measures are mainly embodied in a number of multilateral conventions and several export control arrangements.

As regards the first category, special mention may be made of the 1968 Treaty on the Non-Proliferation of Nuclear Weapons (NPT), the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and their Destruction (BTWC) and the 1993 Convention on the Prohibition of the Production, Development, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC). Belarus is a member of all three conventions, having joined them in 1993, 1972 and 1993 accordingly.

For the purpose of facilitating international cooperation on non-proliferation of WMD around 30-40 states have joined a number of multilateral export control regimes: Zangger Committee (ZC), Nuclear Suppliers Group (NSG), Australian Group (AG), Missile Technology Control Regime (MTCR), (see Annex 1). The purpose of these arrangements is to promote information exchange among their members on the issues, connected with the risks of proliferation of specific goods and technologies as well as to identify products and technologies that can be used to develop WMD, export of which therefore should be subject to co-ordinated control. A considerable proportion of the work carried out by these arrangements consists in keeping the product lists up to date in the light of technological developments. The export control instruments differ, however, from the relevant conventions by not being based on binding agreements under international law. Co-operation within the frame of international export control arrangements is based on national legislation, which stipulates export control measures

over products and technologies that are identified as strategic production. Consequently, participation in the international export control regimes may be considered as a means of facilitating fulfilment of the obligations under international law laid down in the abovementioned agreements and conventions to refrain from assisting other states, either directly or indirectly, to acquire WMD.

THE ZANGGER COMMITTEE

Within the period of 1971 and 1974, a group of 15 states held a series of non-official meetings in Vienna. The group consisted of the countries, some of which were already members and others – potential members of the NPT, which came into force on March 5th 1970. Their aim, as suppliers or potential suppliers of nuclear materials and equipment, was to reach a joint agreement on the following issues:

- definition of what comprises «equipment or material for processing, use or production of special fissionable material»;
- conditions and procedures, regulating the export of such equipment or material in order to comply with the obligations of article III.2 of the NPT¹ on the basis of bona fide commercial competition.

Paragraph 1 of Article 3 on safeguards was earlier, in 1970, interpreted by the International Atomic Energy Agency (IAEA) Special Committee on Safeguards. It worked out a model document, which became a basis for all bilateral agreements on safeguards with the IAEA.

The group, known as the Zangger Committee, decided that it would have unofficial status and that its decisions would not be legally binding for all its members.

By 1974 the Committee had reached consensus on the basic “rules of the game” that were explicated in two separate memoranda. The first memorandum gave definition and dealt with the export of *special fissionable material*. The second memorandum defined and dealt with the export of *equipment and non-nuclear material*. The Committee agreed on the exchange of information about export or issuing licenses on export to any country, not possessing nuclear weapons and not being party to the NPT. The exchange is carried out through a system of Annual Reports, which are circulated confidentially among the Committee members in April.

The consensus, laying the basis of the Zangger Committee Agreements, was officially acknowledged by the Committee member states by exchanging notes. These notes are unilateral declarations stating that the Agreements will be carried out through the domestic export control legislation.

The regime is based upon the so-called “trigger list” – the list of equipment and materials which may be used for the production of special fissionable material. The export items, enlisted in it, require the IAEA safeguards. It means that they will be exported only when the source or special fissionable material, produced, processed or used in this equipment or material, is subject to the safeguards in accordance with the IAEA agreement. The elaboration of the list was completed in 1974. It included, with minor exceptions, almost all main equipment, used in the nuclear fuel cycle. This list is periodically revisited and updated. The last update of the Zangger Committee list took place in 1999. Recently the ZC focused on maintaining the “trigger list” in accordance with the requirements of the latest technological elaborations.

In 2000-2001 the Committee members focused on the increase of transparency and sought to explain the role of export controls within the framework of the NPT.

¹ Each State Party to the Treaty undertakes not to provide: a) source or special fissionable material, or b) equipment or material especially designed or prepared for the processing, use or production of special fissionable material, to any non-nuclear-weapon State for peaceful purposes, unless the source or special fissionable material shall be subject to the safeguards required by this Article.

Belarus took part in the ZC meeting as an observer in May 2001. Belarus submitted an application for a membership, but up to the present time the member states had not reached consensus on its admission. A lack of consensus is connected with the political requirements of some ZC member states.

THE NUCLEAR SUPPLIERS GROUP

Co-operation within the ZC during the early seventies included those countries that had signed the NPT. At that time, however, several countries, possessing substantial nuclear potential, had not acceded to the Treaty. In order to include these countries in the efforts to stem the proliferation of nuclear weapons, the Nuclear Suppliers Group was established in 1974. The reason for the creation of the Group was a successful nuclear test, carried out by India in 1974. The initial NSG members, mainly industrialized western countries, formulated the so-called Guidelines for Part 1, aimed at export control over materials and equipment, used exclusively for nuclear purposes, into non-nuclear states and into nuclear states in case of re-export.

After the Gulf War, resulted in revealing Iraqi nuclear program, in March 1992 the NSG members agreed on the principles for Part 2, regulating the transfer of dual-use materials and equipment, which are used both for nuclear and non-nuclear purposes, in all countries without exception. In March 1993 the NSG strengthened its export policy with regard to Part 1 by accepting new conditions of supply: recipient states must put its nuclear activities under the full-scope IAEA safeguards. In April 1994 the NSG agreed upon a condition of compulsory consent of a supplier prior to re-export of controlled equipment and materials.

Lately the NSG has been taking steps to increase transparency of its work in order to involve additional states into its activities and to avoid critics from the developing countries. At present the issue of expanding contacts with non-NPT member-states is being discussed within the framework of the NSG.

Once a year the NSG holds a Plenary meeting with the rotation of the Chairman. As a rule, the Plenary is preceded by the expert meetings, which consider suggestions on amending control lists etc. In addition to the Plenary meeting the NSG has recently had 4 standing bodies: dual-use regime consultations, joint info exchange group, implementation and transparency working groups. Their chairmen were changing every year. In 2001 in accordance with the document on procedural arrangements, adopted at the NSG Plenary in Aspen (USA), all these groups were substituted by a Consultative group that convenes twice a year to discuss various issues under the NSG competence as well as to put forward suggestions for the Plenary meetings. Official NSG web-site was opened for public in the course of the Prague Plenary in May 2002.

Belarus acceded to the NSG together with Turkey and Cyprus in 2000.

THE AUSTRALIA GROUP

The Australia Group was founded in 1985. The establishment of this export control regime was a response to the conflict between Iran and Iraq in the 1980s, during which it became known that Iraq had acquired substantial national capacity for producing chemical weapons. As a result, several countries tightened their control measures over chemicals' export and certain chemical production equipment. However, these national measures were not co-ordinated and, as a result, the degree of control varied in one country to another. In 1985, a meeting was convened on Australia's initiative for the purpose of discussing the possibility of harmonising national control measures. This initiative resulted in drafting a list of chemicals that should be subject to national export controls. Some of these chemicals also have legitimate peaceful use. In June 1990 the members of the Australia Group decided to extend its scope to microorganisms, toxins and certain production equipment for biological weapons.

Co-operation within the framework of the Australia Group has recently been criticised by the several countries on the grounds that retaining export controls in relation to other parties to BTWC and CWC is discriminative. The members of the Group consider such an export control necessary in order to fulfil the obligations, envisaged by these two Conventions. Therefore in recent years the Group launched some large-scale information programs with the aim to explain its work, aims and tasks. Besides, the AG has opened a web site on the Internet. In 2001 the Group continued elaborating the web site as well as its outreach activity. In particular, at present, the Group is making preparation of detailed information on transparency.

The events of September 11th in the USA have resulted in more intensive efforts to strengthen co-operation on export controls with a view to minimising the risks of terrorism using chemical and biological weapons. The AG was the first of the export control regimes to meet after September 11th. During the meeting all participants declared about their intention to apply efforts to strengthen export control vis-à-vis chemical and biological weapons. During the Plenary meeting in October 2001 the AG also decided to hold intersession meeting before the next Plenary in order to continue important discussion on future activities of the group to strengthen and increase effectiveness in export control with respect to chemical and biological weapons.

Belarus is not a member of the AG, but it follows the development of the situation inside this export control regime.

THE MISSILE TECHNOLOGY CONTROL REGIME

The idea of establishing the mechanism of export control for missiles and missile technologies aroused at the beginning of the 1980s, when the information that some developing countries started producing ballistic missiles has appeared. In April 1987 countries of the "seven" (USA, Canada, Germany, France, Italy, Japan and Great Britain) established the Missile Technology Control Regime to restrict the proliferation of missiles and related technologies.

The MTCR is neither an international agreement nor a treaty. It is a voluntary arrangement among the countries that have common interests in restricting the proliferation of missile and missile technologies. The regime's basic documents are the Guidelines and Equipment and Technology Annex.

The aim of the regime is to restrict the proliferation of missiles and unmanned air vehicles or missile carriers with a payload of at least 500kg and a range of 300km or more. In January 1993 the Guidelines were amended to cover the delivery systems for all types of WMD.

The guidelines define the common control criteria and are explicated as a list of controlled production. The given principles are implemented by every member of the regime in accordance with the national legislation.

The Equipment and Technology Annex consists of 20 columns, combined in 2 categories, and it includes equipment and technology for both military and dual use purposes.

According to the guidelines, the export of category 1 production is under strict restraint and its export is rarely licensed. This production includes: complete rocket systems (ballistic missiles, rocket launchers, rocket explorers), unmanned air vehicles, cruise missiles, target and reconnaissance drones with a payload of at least 500kg and a range of 300km or more; especially designed production facilities for such systems; and certain completed sub-systems, rocket engines or rocket stages, guidance systems and warheads mechanisms etc. The transfer of production facilities for category 1 is strictly prohibited.

Category 2 comprises a wide range of items, components and sub-systems such as: rocket fuel, construction materials, test equipment and devices, flight control. The Guidelines of the Regime allow licensing of category 2 production (dual-use), as it is not designed for the end use in missile production that are subject to the MTCR control according to its range and payload. This production can be exported upon the discretion of governments that are parties to the MTCR in every case for legitimate end use. It can also be exported under the intergovernmental

guarantees on condition of their non-use in rocket system with a payload of at least 500kg and a range of 300km or more.

The Guidelines are open for implementing by all countries, whether they become the official members of the Regime or not. The Regime participants admit that technologies, used in ballistic missiles are identical to those used in missile carriers, and that there are some countries, whose projects of missiles and space carriers projects gave them a possibility to export missile technology.

At present there is no international multilateral mechanism which would prevent the proliferation of ballistic missiles. Alongside with the USA quitting the ABM Treaty and continuing efforts of some countries to elaborate ballistic missile programmes, this issue is very relevant to world peace and security. At present there are three main directions in the international efforts to solve the problem of missile proliferation - the Russian Federation initiative to create a Global control system for non-proliferation of missiles and missile technologies, the International Code of Conduct against Ballistic Missile Proliferation (ICOC) and the Group of governmental experts on assisting the UN Secretary General to prepare a report on missiles in accordance with the respective resolution of the UN General Assembly.

The first draft of the ICOC was prepared within the framework of the MTCR in 2000-2001. During the Plenary meeting of the Regime in Ottawa in September 2001 the partners agreed on taking the Code project out of the frames of the Regime and on further process of follow-up and unification of the document, considering the opinions of all concerned states.

Belarus supports the continuation of the activities in all the three directions, bearing in mind that they are mutually reinforcing processes.

Belarus abides by the Guidelines, traces the development of situation in the Regime and does not exclude a possibility to join the Regime in the future.

THE WASSENAAR ARRANGEMENTS

The Wassenaar Arrangements were established in 1996 as a successor to the Co-ordination Committee on Multilateral Export Control (COCOM) that had existed during the «cold war» and aimed at preventing an acquisition of military goods and technologies by the USSR and the countries of socialist camp.

After the end of the “cold war” it became necessary to expand cooperation within the COCOM with the states of the former socialist camp. In 1993 the COCOM session held in the Hague agreed on termination of the existing regime and on the beginning of activities on establishing a new organisation to control the export of arms, goods and dual-use technologies which had been previously known as the New Forum. On May 31 1994 the COCOM was officially dissolved.

Belarus took part in the work of the New Forum and sent commitment letters on adherence to the export control principles to its chairman.

In July 1996 the consensus on the Initial Elements- the basic document of the New Forum was accomplished. Later it received the name of Wassenaar - a city in the Netherlands, where most part of negotiations was held.

As compared with its successor – COCOM - the Wassenaar Arrangements are based on the following principles: the transfer of production, mentioned in control lists is allowed, but it is to be controlled to avoid destabilising accumulations and should not focus on particular states, mentioned before.

In accordance with the Initial Elements the main aim of the arrangements is a contribution to the strengthening of a regional and international security and stability by providing transparency with regard to the transfer of conventional arms and dual use goods in order to avoid its destabilising accumulations.

The Wassenaar Arrangements focused at another and a larger list of production than other export control instruments. Two control lists are enclosed to the basic document: the

ammunition list, which includes conventional arms and military equipment and the dual use products and technologies list including technologies for civil and military purposes, which are not included into the control lists of other export control regimes. As to the control measures of the second category, the Initial Elements clearly indicate that this measure is aimed at strengthening and reinforcing co-operation on the above mentioned export control regimes without duplication of their activities. The examples of the production categories in the dual use production list are special types of materials, jet systems, sensors, lasers, computers, certain cryptographic production and special equipment for telecommunication, information security, electronics, navigation, aviation, materials processing as well as certain types of naval equipment.

The WA activity was summed up in 1999 and it was stated that the basic document was functioning effectively enough. The WA members agreed on the concrete measures aimed at increasing and enhancing the effectiveness of the regular information exchange within the frame of the given regime and on faster update of the production lists in order to keep pace with the newest technological developments. In the sphere of arms and military equipment, the WA members agreed to expand reporting categories. In 2001 a new computer system for secure internal communication was introduced. The WA member states also agreed to reflect a fight against terrorism in the text of the Initial Elements.

Belarus is not a WA member, but it is interested in co-operation with this regime.

INTERNATIONAL ARMS EMBARGOES

The UN Security Council decisions on banning arms transfers are obligatory for Belarusian exporters of arms and military equipment. Binding embargoes, agreed upon with the UN Security Council are applied to all mentioned states and territories: Abkhasia, Angola, Nagorny Karabakh, Iraq, Liberia, Ruanda, Sierra Leone, and Somali.

Belarus has a multilevel system of state control on foreign trade operations with specific goods. It brings to minimum the number of official denials to issue licenses. All contracts on transfer of special equipment, concluded by Belarusian economic entities are to be considered by the Interdepartmental Commission on Military-Technical Co-operation and Export Control under the Security Council of the Republic of Belarus long before applying for official license. Taking into consideration the above, contracts on the transfer of special equipment to the states and territories that are under the restrictions and prohibitions of the UN Security Council do not pass the first stage of the consideration. In 2001 Belarus had more than 10 cases of denial of arms and military equipment exports at the different stages of applications (permission for contract, execution, licensing). For the 6 months of 2002 there were 5 cases of denial.

UN REGISTER ON CONVENTIONAL ARMS AND OTHER INTERNATIONAL FORMS OF REPORTING ON ARMS TRANSFERS

In December 1991 the UN General Assembly adopted resolution 46/36L, calling upon its members to inform of both export and import of conventional arms and military equipment to the UN Register on conventional arms. The information is submitted on the 7 categories of arms: tanks, armoured combat vehicles, artillery, combat aircrafts, attack helicopters, warships and missiles/missile launchers.

In 2001, the 10th year of the Register, 110 UN member states submitted information on their export and import of arms in these 7 categories. Since all the major exporters, excluding North Korea, and all the main importers except some countries in the Middle East, report their data to the UN Register, it is estimated that 90% of the legal world trade in these weapons is

covered by the Register. From autumn 1996 the information submitted to the UN Register, became available at www.un.org.

Belarus has been presenting its data to the UN Register on conventional arms since 1993 on a regular basis. During the 55th and 56th UN General Assembly Sessions, Belarus supported resolutions 55/33U and 56/24Q, calling upon the UN member states to annually submit data and information to the UN Register and to put forward suggestions for its improvement.

Belarus timely presented to the UN Register on conventional arms the information on export/import of conventional arms and military equipment in 2001 (see Annex 2).

At the OSCE Forum for security co-operation 55 member-states agreed to abide by certain principles on arms export, including submitting annual reports on international transfer of conventional arms and military equipment. Parallel with the data submitted to the UN Register, Belarus sends analogous information to the OSCE. It also provides answers to the OSCE Questionnaire on policy and national procedures for the transfer of conventional arms, related goods and technologies.

INTERNATIONAL EFFORTS TO PREVENT AND COMBAT DESTABILIZING ACCUMULATIONS AND UNCONTROLLED SPREAD OF SMALL ARMS AND LIGHT WEAPONS

Together with other countries Belarus seeks for effective measures to localise military conflicts by preventing uncontrolled acquisition of small arms and light weapons (SALW). The term “small arms and light weapons” includes small arms and other weapons intended to be carried and used by one or two persons.

Various international fora have been engaged for several years in efforts to prevent and combat destabilising accumulations and spread of SALW.

In November 2000, the OSCE Forum for security co-operation adopted the OSCE Document on Small Arms and Light Weapons, which contains standards, principles and measures related to SALW producer and marking, registration, export controls and export criteria, transparency, stockpiling security and surpluses. Belarus took an active part in preparation and approval of this document.

In June-July 2001 Belarus took part in the first information exchange on national legislation and current practice on export policy in accordance with the provisions of the OSCE Document on SALW. In June-July 2002 the second information exchange on SALW export/import, stockpile management, surplus and destroyed SALW.

Within the framework of the implementation of the OSCE Document on SALW the Republic of Belarus timely provided member states with the given information (see Annex 3).

In July 2001 the UN Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects took place in New York. The Conference resulted in the adoption of the UN Action Program on Prevention and Elimination of Illicit Trade of Small Arms and Light Weapons in All its Aspects and Fight against it.

As a practical contribution to the implementation of the UN Action Program with a view to further increase transparency in this sphere Belarus voluntarily sent a national information submitted in accordance the OSCE Document on SALW on national legislation and current practice in the sphere of export control to the UN member states. It also initiated the adoption of the decision of the OSCE Forum for security co-operation №9/02 of 3 July 2002 “Provision of the Model Answer for the OSCE Information Exchange on SALW to the United Nations”.

THE REPUBLIC OF BELARUS' POLICY IN THE FIELD OF EXPORT CONTROLS, ARMS AND MILITARY EQUIPMENT EXPORTS

After the collapse of the Soviet Union the new states that have emerged on its territory faced a great number of problems connected with the establishment of the national state structures, including those of foreign trade activity.

A transition to the market economy, when different economic entities can be found in the sphere of production and trade, creates new challenges for the public services of a new state in the sphere of control over the export of military production and dual-use goods that can be used for the development of conventional arms as well as weapons of mass destruction and their delivery means. Hence two factors of the former and current economic activity – concentration of state economic control over production and export of specific goods in the centre in the past and a rapid transition to the independent market economy in the present – influenced dramatically the readiness of the Republic of Belarus to develop the export control system.

The peculiarity of Belarus is that it has a favourable geographical location with the most important transport and passenger roots, passing through its territory. For this reason it is often used by smugglers trying to contraband some specific goods through its territory. There have been several attempts of illegal transit of radioactive materials through Belarus. It should be taken into account that the republic has a developed chemical industry and under certain circumstances there might be a threat of use it for terrorist purposes inside the country as well as its illegal export.

According to international standards, the establishment of a national export control system presumes the presence of the following components:

- the state should undertake political commitments to establish control over the export of hazardous materials, equipment and technologies, including weapons and military-related goods and dual-use commodities, which can be used for the development of weapons of mass destruction (nuclear, chemical, biological), conventional weapons and their delivery means;
- the state should establish a legal basis to implement export controls and create legal mechanisms for the interaction of different state authorities charged with the practical implementation of export controls.

The Republic of Belarus, developing its foreign trade activity, recognising the threat of uncontrolled export of weapons, products and technologies that can be used for their manufacturing, and strictly fulfilling its international commitments in accordance with the treaties and agreements to which Belarus acceded either to on the basis of succession or as an independent state, has taken concrete steps to establish a national system of export control.

The following acts that regulate the export of conventional arms, dual use goods and technologies, and the relations arising during weapon circulation in the territory of the republic are in force in the Republic of Belarus:

- 1) The Law of the Republic of Belarus "On Export Control" of 6 January 1998;
- 2) The Decree of Council of Ministers of the Republic of Belarus of 10 January 1998 No. 27 "On Improving State Control Over Transfer of Specific Goods (Works, Services) Across the Customs Border of the Republic of Belarus";
- 3) Regulations on the Order of Provision the Legal Entities of the Republic of Belarus with the Authority to Conduct the Foreign Trade Activity vis-à-vis Specific Goods (Works, Services);
- 4) Regulations on the Interdepartmental Commission on Military-Technical Co-operation and Export Control under the Security Council of the Republic of Belarus;
- 1) The Law of the Republic of Belarus "On Arms" of 13 November 2001;
- 2) The Decree of the Council of Ministers of the Republic of Belarus of 24 April 2002 No. 522 "On the Adoption of Regulations on Transit of Goods for Military Use through the Territory of the Republic of Belarus".

Some of these documents also lay basis for the establishment of export control system within the enterprises. It means that every enterprise, association or organisation, which is engaged in the foreign trade operations with specific goods (works, services), appoints persons responsible for the compliance with the obligations in the field of export controls.

The Law "On Export Control" has defined a legal basis of the activity of state bodies, legal and physical entities of the Republic of Belarus in the field of export control, the general principles and the basic concepts in the field of export controls, the bodies of state regulation participating in export controls, their responsibility and authority, and also has defined items which are subject to export controls.

According to the Article 2 of the Law, under export control in the Republic of Belarus is meant the establishment and carrying out of licensing, importation, use, transit and exportation of items which are subject to export control.

The export control in the Republic of Belarus is based upon the following major principles:

- implementation of the state control over the transfer of export control items through the customs border of the Republic of Belarus;
- check of use of the export control items;
- publicity and availability of the information on the order, rules, purposes, tasks, principles of functioning of the export control system and measures of responsibility for the violation of the legislation of the Republic of Belarus in the sphere of export control;
- definition of lists of the objects of export control, and also the countries, to which export of item which are subject to export control is temporarily banned or limited;
- harmonisation of export control procedures and rules with the internationally recognised international norms and practices.

A set of principles and a concept of the export control system which is understood as a set of rules and the means directed on the establishment and carrying out of the procedure of external economic operations, connected with the transfer through the customs border of the Republic of Belarus and use of items which are subject to export control, and also a set of the authorised state bodies providing the implementation of this order, have predetermined the further direction of the development of the basic elements of the export control system:

- definition of the list of items which are subject to export control taking into account the international approaches in this area;
- definition of the of regimes of exportation of items which are subject to export control to certain countries;
- licensing of import and export of items which are subject to export control;
- providing the state assurances that the imported dual-use items will be used in accordance with the declared purposes and will be re-exported only with the permission of the authorized bodies of the country of origin;
- carrying out pre- and post-licensing checks while conducting the external economic operations with items which are subject to export control;
- information exchange and other co-operation with international organisations and export control bodies of foreign states.

The practical mechanism of implementation of the Law "On Export Control" has received a further development in *the Decree of the Council of Ministers "On Improving State Control Over Transfer of Specific Goods (Works, Services) Across the Customs Border of the Republic of Belarus "* of 10 January 1998 No. 27.

This decree approves the unified licensing order of export of goods that are subject to export control; determines the state bodies participating in the system of export control;

determines procedure of obtaining the general or single license and the agreement of the application on obtaining a license with the interested state bodies; determines conditions of license-free exportation of specific goods; defines the order to obtain permission for the temporary import (export) of the specific goods; establishes the order of issuing international import certificates as well as the mechanism of control over the use of the exported or imported goods that are subject to export control in accordance with the declared purposes.

One of the major international principles of export control approved by the present decree is the control over the end use of exported (imported) specific goods. In case of export of item which are subject to export control a licensing body requests the provision of end-user certificate. This document should be issued according to the legislation of importing country, properly legalised and should contain the data on end-user of production, a place and a purpose of use, a nomenclature of purchased goods, and also the obligation of importing state not to re-export or re-transfer imported property to other countries without a written permission of the authorised body of exporting state.

The decree also determines the order of issuing the international import certificate by the Ministry of Foreign Affairs of the Republic of Belarus. MFA issues this document as an assurance of use of imported specific goods by the economic entities in the territory of the Republic of Belarus in strict conformity with the declared purposes.

According to the Law of the Republic of Belarus "On Export Control" the co-ordination of interaction of the authorised state bodies in the field of export control, carrying out of the account and control of the licenses issued, other documents connected with the transfer of items which are subject to export control through the customs border of the Republic of Belarus, their use in the territory of the republic, is carried out by the Ministry of Foreign Affairs.

The export control system as a set of state bodies also includes respective divisions of the Ministry of Defence, Ministry of Industry, Ministry of Economy, Ministry of Health, State Security Committee, State Customs Committee, National Academy of Sciences, Nuclear Safety Department of the Ministry for Emergencies.

The authorised body of the Republic of Belarus for the control over the export and import of specific goods (works, services) is the Interdepartmental Commission on Military-Technical Co-operation and Export Control under the Security Council of the Republic of Belarus.

THE INTERDEPARTMENTAL COMMISSION ON MILITARY-TECHNICAL CO-OPERATION AND EXPORT CONTROL UNDER THE SECURITY COUNCIL OF THE REPUBLIC OF BELARUS

The Interdepartmental Commission functions as an authorised body of the state for the development of proposals and implementation of control over the carrying out of the state policy in the field of military-technical co-operation (MTC) and export control as well as a working mechanism on exercising this policy.

The main tasks of the Commission consist of the co-ordination of activities of the state bodies and economic entities of the Republic of Belarus in the sphere of MTC with foreign states and the carrying out of the state control over the export and import of specific goods (works, services).

To fulfil these tasks the Commission:

- carries out the control over the activities of the industrial defence enterprises of the Republic of Belarus;
- considers the proposal of the republican state bodies and economic entities on the issue of MTC;
- carries out the control over the compliance the republic with the international

obligations in the field of export control;

- takes decision on possible carrying out of certain types of the activities connected to the specific goods (works, services) by legal persons of the Republic of Belarus; provision the legal entities of the republic with the authority to participate in the foreign trade activity concerning specific goods (works, services); opportunities of carrying out the foreign trade operations with specific goods (works, services);
- considers the proposals of the authorized republican state bodies on issuing special permissions (licenses) to the activity concerning the specific goods (works, services) to the legal entities of the Republic of Belarus, and also on suspension of the license or its revocation.

The Commission comprises the representatives of the State Secretariat of Security Council, the Ministry for Foreign Affairs, the State Security Committee, the Ministry of Defence, and the State Customs Committee.

The decisions adopted by the Interdepartmental Commission in the field of military-technical co-operation and export control, agreed by the State Secretary of Security Council of the Republic of Belarus, are mandatory to execution by all state bodies and economic entities of the Republic of Belarus.

LISTS OF SPECIFIC GOODS (WORKS, SERVICES) WHICH ARE SUBJECT TO EXPORT CONTROL

To ensure full control over the import and export of items which are subject to export control in the Republic of Belarus there are lists of specific goods (works, services) approved by a joint decision of the Ministry of Foreign Affairs and the State Customs Committee of 26 December 2001 №9/64. Control lists are enacted in accordance with the Article 9 of the Law on Export Control to carry out the international obligations of the Republic of Belarus.

According to the Article 4 of Agreement between the Government of the Republic of Belarus and the Government of the Russian Federation "On a Unified Order of Export Control" Belarus and Russia have agreed " to carry out export control, including by licensing and the customs control over the export, on the basis of the national unified lists of certain types of materials, equipment, technologies and the services that are subject to export control of the Parties. The national unified lists of certain types of materials, equipment, technologies and the services that are subject to export control of the Parties, and the procedure of export control should correspond to the international treaties and the arrangements regulating the international export control regimes regardless of participation of the Parties in these international regimes".

The lists of specific goods (works, services) acting in the territory of the republic are unified with the control lists of the Russian Federation and include the following sections:

- the list of nuclear materials, equipment, special non-nuclear materials and respective technologies which can be used for the development of nuclear weapons;
- the list of chemicals, equipment and technologies that have peaceful purpose, but can be used for the development of chemical weapons;
- the list of pathogens of humans, animals and plants, their genetically changed forms, fragments of a genetic material and equipment that can be used for the development of bacteriological (biological) and toxic weapons;
- the list of the equipment, materials and the technologies used for the development of missile weapons;
- the list of goods (works, services) for military purposes;
- the list of dual-use goods and technologies;

- the list of cryptographic means (works, services), including cryptographic hardware as well as special technical devices.

Placing the products to the category of specific goods is made on a basis of their description, characteristics and the CIS Foreign Trade Commodity Nomenclature. In disputable cases the decision is taken on the basis of a written conclusion of the Ministry of Foreign Affairs of the Republic of Belarus which is sent to the applicant and to the State Customs Committee of the Republic of Belarus.

PROCEDURE OF APPLICATIONS SUBMISSION AND LICENSE ISSUANCE ON IMPORT AND EXPORT OF MILITARY AND DUAL USE GOODS (WORKS, SERVICES).

Currently the export-import of specific goods (works, services) is carried out by the licenses issued by the MFA. Licenses can be given only to legal entities of the Republic of Belarus that have received a certificate that authorised the foreign trade activity concerning specific goods (works, services). Today such an authority is given to a limited number of foreign trade intermediary companies and a number of enterprises-manufacturers to conduct foreign trade operations with the production of its own development and manufacture.

In the Republic of Belarus the authority to carry out foreign trade activity with arms and military equipment which is under the control of republican state bodies having its own military formations, is given to 4 companies exporters: "Belspetsvneshtekhnika", "Belvneshpromservice", "Belorusintorg", "Beltekhexport".

At the stage of pre-contract transaction preparation foreign trade intermediary companies check the reliability of a partner, study demand on a foreign market, estimate the external economic and political aspects that will promote sales of commodities in these or those countries. Having worked out these questions, the companies address the Ministry of Defence or the enterprises-manufacturers to clarify an opportunity of selling the goods relating to the category of specific to a foreign customer.

In case of concluding a contract the exporter needs to have it approved by the Interdepartmental Commission on Military-Technical Co-operation and Export Control under the Security Council of the Republic of Belarus. The Commission, having considered all the prepared and submitted documents, takes a decision on transaction. The decision of the Commission has a form of protocol.

The following stage is licensing. There are two types of licenses:

a) The single-export/import license. It is issued for a period of up to 12 months for a single contract;

b) The general export/import license. It is issued upon the decision of the Interdepartmental Commission on Military-Technical Co-operation and Export Control for a period of up to 12 months for a single or several contracts.

To obtain a license the organisation-applicant submits the following documents to the Ministry of Foreign Affairs:

- two copies of the application-license agreed upon with the ministries and agencies, indicated in the decision of the Interdepartmental Commission;
- a copy of an excerpt from a protocol of the Interdepartmental Commission;
- an end-user certificate;
- an original and a copy of the export/import contract;
- a confirmation of the origin of exported goods.

The confirmation of the intermediary's authority to carry out foreign trade operations with the specific goods is mandatory according to the legislation of the state where it is registered.

The Ministry of Foreign Affairs studies the submitted documents with regard to:

- the rights of Belarus' economic entity to conduct foreign trade operations with the specific goods;
- a correspondence of exported goods to the lists (confirmation of the classification of the goods indicated by the applicant);
- a presence of a company-importer in a "black list", reliability of an importer and intermediaries;
- legality of end-use of a product (end-user certificate is checked);
- compliance of conditions of the foreign trade contract with the legislation of the Republic of Belarus in the field of currency regulation.

After the consideration by the Ministry of Foreign Affairs the documents are sent to the State Secretary of Security Council of the Republic of Belarus to take a final decision on license issuance. After this decision the Ministry of Foreign Affairs issues a single or a general license for export of specific goods (works, services) within a three-day period.

TEMPORARY AND LICENSE-FREE EXPORTATION OF SPECIFIC GOODS (WORKS, SERVICES)

The decision on the temporary exportation of specific goods (works, services) for participation in exhibitions (fairs), maintenance, modernisation, tests, docking works and training is taken by the Interdepartmental Commission on Military-Technical Co-operation and Export Control under the Security Council of the Republic of Belarus and is carried out upon the approval by the Ministry of Foreign Affairs, and, if necessary, by the state bodies concerned.

Temporary exportation is authorised for the period of up to 12 months.

The economic entity should present a commitment to re-import the goods without any change of quantitative characteristics.

The license-free exportation of the military goods (works, services) is authorised in cases of:

- carrying out of peace support operations on the basis of the decisions taken by a respective state body;
- maintenance services, exchange or their mutual transfer according to the international treaties;
- manoeuvres in the territory of another state in case of the presence of a special permit issued by the Ministry of Defence;
- carrying out of mutual shipments of accessories, spare parts, account materials between the Republic of Belarus and other countries in the order envisaged by respective intergovernmental agreements.

THE CRIMINAL AND ADMINISTRATIVE RESPONSIBILITY FOR VIOLATION OF THE LEGISLATION OF THE REPUBLIC OF BELARUS IN THE SPHERE OF EXPORT CONTROL

According to the Article 15 of the Law on Export Control a criminal, administrative and other responsibilities are established for violation of the legislation of the Republic of Belarus on export control.

In the Criminal Code of the Republic of Belarus that has come into force on 1 January 2001, there are Articles 228 and 229 of the following contents:

Article 228. Smuggling.

The transfer across the customs border of the Republic of Belarus of goods and valuables forbidden or limited for export/import (except for those specified in the second part of the

article), unbeknownst by the customs, or concealed from such, or with the use of false documentation, identification means, or deliberately fraudulent declaring, is subject to a fine or up to 5 years of freedom restraint or the same period of imprisonment.

The transfer across the customs border of the Republic of Belarus of narcotic, poisonous, toxic, virulent, hallucinogenic, radioactive and explosive substances, weapons, firearms and munitions, nuclear, chemical, biological and other weapons of mass destruction special materials and equipment of military designation, unbeknownst by the customs, or concealed from such, or with the use of false documentation, identification means, or deliberately fraudulent declaring, is subject to 3-7 years of imprisonment with or without property confiscation.

The actions envisaged by parts 1 and 2 of the article, committed on previous collusion by a group of persons, or a person, earlier convicted for smuggling, or the official with the use of his/her authority, or committed with the use of violence vis-à-vis a person carrying out the customs control, are subject to 5-10 years of imprisonment with or without property confiscation.

The actions envisaged by parts 1, 2 or 3 of the Article, committed by an organised group, are subject to 7-12 years of imprisonment with or without property confiscation.

Article 229. Illegal export of items which are subject to export control.

Illegal export of goods, technologies, services and other items which are subject to export control that can be used for the development of weapons of mass destruction, its delivery means, arms and military equipment is subject to 7 years of imprisonment with or without property confiscation.