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REGULATION

on implementation of the Law for foreign trade activity in arms and in dual-use goods and technologies (SG 102/95)

Chapter one FOREIGN TRADE ACTIVITY IN ARMS

Section I General provisions

Art.1. (1) Foreign trade activity in arms shall be effected by trade companies where Bulgarian equity participation exceeds 50% and which have been granted a license for such activity by the Interdepartmental council on the issues of the military-industrial complex and the mobilisation convenience of the country, called hereinafter "The Interdepartmental council".

(2) The license for foreign trade activity in arms shall be issued with a term of validity up to 1 year.

(3) The license of para 1 shall be possible to be full and limited with regard to the implemented activities and the country enduser.

Art.2. The companies which have been granted a license referred to in art.1, shall carry out transactions with arms on the basis of a permit issued by the Commission for control and permission of foreign trade transactions with arms and with dual-use goods and technologies at the Ministry of Commerce and Foreign Economic Cooperation, called hereinafter "the commission". The permit shall be issued for a definite term.

Art.3. To acquire a license for foreign trade activity in arms and of a permit for a transaction fees shall be paid in extent determined by the Council of Ministers. At revocation of the license and/or the permit the fees paid shall not be subject to redeeming.

Section II License for foreign trade activity in arms

Art.4. The trade companies referred to in art.1 applying for a license, shall present at the Interdepartmental council:

1. application (explanatory note);
2. court certificate about the circumstances entered into the trade register, containing all the changes of these circumstances following the entering;
3. a document from the Ministry of Internal Affairs that the applicant has created conditions and the necessary organisation for:
 - a) foreign trade activity in arms according to the requirements of the Law for control on the explosive substances, arms and ammunitions;
 - b) work with secret documents and protection of state secret according to the requirements of the legal acts in effect;

4. a list of the individuals who are directly involved in this activity, accompanied with biography and CV information, a certificate about the court record and a sample of the signature;
5. a document for fees paid;
6. a copy of the documents certifying the tax registration and the registration at the National Statistics Institute (code BULSTAT).

Art.5. The Interdepartmental council shall consider the submitted applications in 30 days term after the date of applying. The decision to grant a licence or the refusal shall be announced to the applicant in 7 days term after the date of taking the decision.

Art.6. The Interdepartmental council shall notify within 5 working days the Ministry of Internal Affairs, the Ministry of Finance General Customs Directorate and the commission for the issued and renewed licenses.

Section III

Permit for foreign trade transaction with arms

Art.7. (1) A permit for foreign trade transaction with arms shall only be given to the trade companies referred to in art.1 that have been granted a license for such activity.

(2) The commission shall consider the submitted applications for permit of particular foreign trade transactions in 15 days term after the date of applying. The permit or the refusal shall be announced to the applicant in 7 days term after the date of taking the decision.

(3) If a transaction permitted under the regulations of this chapter is not implemented in term, the applicant shall be able to appeal by a motivated written claim an extension of the term 15 days before its expiry, pointing out the part of the unrealised quantities.

Art.8. (1) The participation of trade companies in international tenders for export or re-export shall be permitted by the commission.

(2) The trade companies shall submit a written application, accompanied with an invitation for participation in the tender.

Art.9. Within 5 working days the commission shall inform the bodies of the Ministry of Finance General Customs Directorate, and the Ministry of Internal Affairs about the permits which term has been extended or has expired.

A. Import

Art.10. (1) The import of arms shall be carried out on the basis of a permit for import, issued by the commission.

(2) The permit for import shall be valid 180 days from the date of issuing or for the pointed out in the contract term of delivery which cannot be longer than the term of the issued license to art. 1

Art.11. (1) For import of arm the licensed company shall submit to the commission the following documents:

1. a letter-application about the transaction for import where the terms and the prices of the

deal are pointed out;

2. a filled-in form permit for import according to appendix No 1 in 4 copies;
3. a copy and a Bulgarian translation of a document, issued by a competent body of the country where the selling company is registered, that the said company has a permit to trade with arms;
4. a written declaration by the importer and a written declaration by the end-user that the imported arms will not be reexported or transferred to third individuals or corporate bodies without the permit of the competent Bulgarian bodies and that it would be used observing the Bulgarian laws in effect.

(2) To acquire a permit for: temporary import of arms in the Republic of Bulgaria with a reverse export abroad in a changed status (TI) code 7 (according to Instruction No 2 of the Ministry of Finance of 1992); temporary import of arms in the Republic of Bulgaria with reverse export abroad in an unchanged status (TI) code 8, and for reverse export of arms (RE) code 4, shall be filled in a permit for temporary import according to appendix No 2 and a permit for reverse export according to appendix No 2a.

(3) The permit for import shall be presented by the importer at the corresponding customs department together with the bill of entry, filled-in according to the instructions in appendix No 3.

(4) The import shall be verified by a copy of the bill of entry, certified by the customs department, filled-in according to the instructions in appendix No 3, and a permit for import according to appendix No 1 where under each separate shipment are filled in the number and the date of the customs manifest and the number and the date of the bill of entry.

(5) The commission shall be able to refuse issuing a permit for import of arms in case that a Bulgarian producer is able to produce arms of the same or similar technical characteristics, quality and price.

Art.12. In case the seller requires from the Bulgarian buyer a certificate for end-user, the buyer shall present a certificate, filled-in according to the requirements contracted between the two parties, signed and stamped by the buyer (user) and certified as follows:

1. by the Ministry of Defense in case that the goods are designated for the same Ministry or for the forces of the other departments;
2. by the Ministry of Industry in case that the goods are designated for the production activity of the trade companies;
3. by the Ministry of Internal Affairs in case that the goods are designated for the same Ministry or for security needs of banks, companies and other departments.

B. Export and re-export

Art.13. The export or the re-export of arms shall be executed on the basis of permits issued by the commission.

Art.14. (1) To acquire of permit for export the exporter shall present at the commission for each transaction the following documents:

1. a filled-in sample permit according to appendix No 4;
2. a copy and a Bulgarian translation of a document, issued by a competent body from the country of the foreign contractor importer that the same contractor has a permit to trade with arms;

3. a copy and a Bulgarian translation of the certificate for end-user, issued by the competent bodies of the country user.

(2) The original of the certificate shall be safe-kept by the exporter till the end of the transaction after which it shall be sent to the commission for safe-keeping.

(3) To acquire a permit for: temporary export of arms abroad with its reversion in the Republic of Bulgaria in changed status (THE) code 2 (according to Instruction No 2 of the Ministry of Finance of 1992); temporary export of arms abroad with its reversion in the Republic of Bulgaria in unchanged status (THE) code 3, and reverse import (RI) code 9, shall be filled in a permit for temporary export according to appendix No 5 and a permit for reverse import according to appendix No 5a.

Art.15. (1) The exporter shall be obliged to include in the foreign trade contract a clause ensuring guarantees on behalf of the buyer that the bought arms will not be re-exported.

(2) In case that the contract for export is not concluded directly with the Ministry of Defense or with the Ministry of Internal Affairs of the corresponding country importer but through a middleman, the clause of para 1 in the sale contract shall also be included in the certificate for end-user, issued by the competent body of the country user.

(3) After receiving of permit for a particular transaction changes of the conditions of the transaction shall be possible to be made with the consent of the commission.

Art.16. The permit for export shall be valid 180 days after the date of issue or for the period of delivery pointed out in the contract which cannot be longer than the term of the issued general license referred to in art.1.

Art.17. The commission shall submit information about the issued permits to the General Customs Directorate and to other departments according their competence.

Art.18. Re-export of arms shall be executed on the basis of a permit for reexport. To acquire a permit for re-export the following documents shall be enclosed:

1. a filled-in sample permit for reexport according to appendix No 6;
2. a certificate for end-user of the arms;
3. a copy of the foreign contract with a clause included about non admitting of re-export without the written consent of the commission;
4. a permit for re-export by the competent bodies of the state of the initial supplier.

Art.19. (1) The permit for export or re-export shall be presented by the exporter at the corresponding customs department together with the customs declaration for export or re-export, filled-in according to the instructions in appendix No 7.

(2) The export or the re-export shall be certified with certified copy of the customs declaration for export, certified by the customs department, filled-in according to the instructions in appendix No 7 and the permit for export (appendix No 4) or for re-export (appendix No 6), where shall be entered under each separate shipment the number and the data of the customs manifest and the number and the data of the bill of export.

C. Permit for transit transportation

Art.20. (1) A transit transportation of arms shall be executed on the basis of a permit for transit transportation. For issuing a permit for transit transportation the following documents shall be

presented:

1. a filled-in permit for transit transportation according to appendix No 12;
2. a permit for transit transportation through the territory of the state following the Republic of Bulgaria along the route of the transit transportation, issued by the competent bodies.

(2) The documents shall be worked out by the sender of the goods or by an official empowered by him and they shall be presented at the commission not later than 15 days before the entering of the goods on the territory of the Republic of Bulgaria.

(3) The permission or the refusal shall be announced to the applicant in 10 days term after the date of submitting the documents.

(4) The permit shall be valid under the conditions and till the expiry of the term pointed out in it but not later than 10 days for automobile transport and 15 days for railroad transport.

(5) The outgoing customs department within 10 working days after the certification of the transit transportation shall send one copy of the permit certified by them to the commission and to the General Customs Directorate.

Section IV Submission of information

Art.21. The trade companies of art.1 shall be obliged at request of information by the Interdepartmental council or by the commission to present:

1. data about the employees processing the transactions;
2. a copy of the commercial contract with the foreign partner middleman, forwarding agent, carrier, end-user or producer;
3. a copy of the concluded commercial contract with the Bulgarian producer or user about the request made for import/export;
4. data (technical characteristics) and description of the technologies and goods subject to the foreign trade transaction;
5. data about the terms of payment and bank guarantees;
6. information about the foreign trade transaction and their realisation with regard to the permits given;
7. by the decision of the commission it may also require other information which relevant to the foreign trade transaction.

Art.22. At request for permission for import of equipment, materials and parts for introduction of technologies in the Republic of Bulgaria for production of arms, the applicant shall be obliged to present technical specifications and technological documentation, including data referring to the conditions for utilisation of the technology.

Art.23. If the acquired licensed rights or technologies for production of arms are not used or are not used as intended, or if their use is terminated, the end-user in the Republic of Bulgaria shall be obliged to notify the commission about that.

Art.24. (1) The information that has been submitted to the Interdepartmental council and the commission, which is required for issuing the corresponding permits and is not included in the List of facts, data and subjects constituting state secret of the Republic of Bulgaria, shall comprise an official, trade and production secret and shall not be subject to dissemination or submission for use by Bulgarian or foreign individuals or corporate bodies.

(2) The information of para 1 shall be submitted through secret channels.

Art.25. After the customs processing of the last shipment with which the permitted quantity of the permit for export is depleted, import or re-export, the trade company, subject to the foreign trade transaction, shall send in 7 working days term the original of the permit to the commission.

Chapter two

FOREIGN TRADE ACTIVITY IN DUAL-USE GOODS AND TECHNOLOGIES

Section I

General provisions

Art.26. (1) The foreign trade activity in such goods and technologies as: nuclear materials, nuclear-related equipment and technologies with potential application in the field of nuclear arms; initial chemical compounds, equipment and technologies with potential application in the field of chemical weapons; initial elements, equipment and technologies with potential application in the field of biological weapons and technologies with potential application in the field of rocket carriers of chemical, biological and nuclear weapons, subject to restrictions referred to in art.4, para 2 of the law, shall be executed on the basis of a licence issued by the Interdepartmental council after an assessment that the objectives of art.2 of the law would not be affected. A permit for a transaction with this kind of goods and technologies shall be issued by the commission to an applicant who has an issued licence.

(2) The permission or the refusal to be issued a licence shall be executed by the Interdepartmental council on the basis of the information submitted and after consultations with other departments according to their competence. The permit or the refusal shall be announced to the applicant in 30 days term after the submission of the application.

Art.27. (1) Foreign trade activity with goods and technologies shall be executed on the basis of a permit for a transaction, issued by the commission.

(2) The permit for import, for re-export and for transit transportation or the refusal a permit to issued shall be announced to the applicant within the following terms:

1. up to 10 days from the date of submitting the documents in the cases of an issued license as referred to in art.26;
2. up to 30 days from the date of submitting the documents in the rest of the cases.

(3) The permit for import, export and re-export shall be valid under the conditions and until the expiry of the term of the shipment pointed out it but not more than:

1. 180 days in the cases and within the terms of validity of an issued license referred to in art.26;
2. 90 days in the rest of the cases.

(4) The applicant shall in due time inform the commission about all the changes in the terms of the transaction. In case of significant changes the issued permit shall be repealed and a new permit shall be issued according to the general proceedings.

(5) By the decision of the commission it may also require another information related to the foreign trade deal.

Section II

Provisions and proceedings for issuing a license

Art.28. (1) A license for execution of foreign trade activity in goods and technologies shall be issued with a term of validity up to 1 year.

(2) To acquire a license it shall be necessary to submit to the Interdepartmental council the following documents:

1. a court certificate about the circumstances entered in the trade register, containing all the changes following the entry and BULSTAT (as an original or a copy, certified with a fresh stamp of the applicant);
2. information about fulfilled tax duties;
3. a document of the Ministry of Internal Affairs, the Committee for peaceful use of nuclear energy or other competent body pointed out by the commission that the applicant has created conditions and the necessary organisation for work with the specified type of goods and/or technology.

Section III Permit for a particular transaction

A. Import

Art.29. (1) Import of goods and technologies shall be executed on the basis of a permit for import. To acquire a permit for import the following documents shall be presented:

1. a filled-in permit according to appendix No 8 and an application about the end-user according to the sample of appendix No 9;
2. a court certificate about the circumstances entered in the trade register, containing all the changes of these circumstances following the entry, tax registration and BULSTAT (as an original or an official certified copy of the applicant) in the cases when no license is required under art.26.

(2) The commission shall send a copy of the issued permit and application to the end-user, to General Customs Directorate and to the Ministry of Internal Affairs.

(3) The applicant shall be obliged at releasing the shipment to present at the corresponding customs offices a filled-in certificate about the implemented supply according to appendix No 10. The certificate about the delivery carried out shall be issued by the customs office in confirmation of the fact that the goods pointed out in it have been delivered to the Republic of Bulgaria.

(4) Within 10 working days after filing the import General Customs Directorate shall send to the commission one copy of the certificate about delivery carried out together with a copy of the bill of entry.

B. Export

Art.30. (1) Export of goods and technologies shall be executed on the basis of a permit for export. To acquire a permit for export the following documents shall be presented:

1. a filled-in permit for export according to appendix No 11;
2. a certificate for end-user of the goods and/or the technology where the end-user shall point out for what purpose and where the goods and/or the technology would be used;
3. a permit for import by the authorities of the state of the enduser, including non-admittance of re-export without the written consent of the commission;

4. a court certificate about the circumstances entered in the trade register containing all the changes following the entry, a tax registration and BULSTAT (as an original or an official certified copy of the applicant) in the cases when the license of art.26 is not required.

(2) At necessity the permit for export shall be issued after a coordination with the Ministry of Internal Affairs and with other departments according to the conceded competence in compliance with art.2 of the law.

(3) The commission shall send a copy of the permit to General Customs Directorate and to the Ministry of Internal Affairs.

(4) Within 10 working days after the date of filing the export General Customs Directorate shall send to the commission a copy of the bill of export.

(5) The applicant shall present to the commission a certificate for delivery carried out or an equivalent document by the end-user, confirming the release of the goods and/or the technology from the customs of the enduser at latest 3 months after the date of entry.

C. Re-export

Art.31. (1) Re-export of goods and technologies shall be executed on the basis of a permit for re-export. To acquire a permit for re-export the following documents shall be presented:

1. filled-in permits for import and export according to appendix No 8 and appendix No 11;
2. a certificate about end-user of the goods and/or technology where the end-user points out for what purpose and where the goods and/or the technology would be used;
3. a permit for import by the competent bodies of the state of the end-user, including non-admittance of re-export without the written consent of the commission;
4. a permit for re-export by the competent bodies of the state initial supplier;
5. a court certificate about the circumstances entered in the trade register, containing all the changes of the circumstances following the entry, tax registration and BULSTAT (as an original or a copy certified with a fresh stamp of the applicant) in the cases when no license of art.26 is required.

(2) The commission shall send a copy of the permit to General Customs Directorate and to the Ministry of Internal Affairs.

(3) Within 10 working days term after the date of filing the re-export General Customs Directorate shall send to the commission a copy of the bill of export.

(4) The applicant shall be obliged to present to the commission a certificate for delivery carried out or an equivalent document by the end-user confirming the release of the goods and/or technology from the customs of the country of the end-user at latest 3 months after the date if its entry.

D. Change of the end-user on the territory of the Republic of Bulgaria

Art.32. (1) The change of the end-user of a goods and/or technology on the territory of the Republic of Bulgaria shall be executed on the basis of a permit for change of the end-user. For issuing a permit for change of the end-user the following documents shall be presented:

1. a filled-in permit by the enduser according to appendix No 9;
2. a court certificate about the circumstances entered in the trade register containing all the changes of the circumstances following the entry, tax registration and BULSTAT (as an

original or an official certified copy of the applicant) in the cases when no license of art.26 is required.

(2) The permission or the refusal shall be decided by the commission on the basis of the presented information and the results of the consultations with other departments according to their competence.

(3) The permission or the refusal shall be announced to the applicant within 5 working days from the date of submitting the documents.

(4) The permit shall be valid under the conditions and till the expiry of the term of the supply pointed out in it but not more than 3 months.

(5) The commission shall send through official channels a copy of the issued permit to General Customs Directorate and to the Ministry of Internal Affairs.

Section IV

Permit for transit transportation

Art.33. (1) Transit transportation of goods as: radioactive, explosive, inflammable, oxidising, toxic, infectious and corrosive substances, shall be executed on the basis of a permit for transit transportation. For issuing a permit for transit transportation the following documents shall be presented:

1. a filled-in permit for transit transportation according to appendix No 12;
2. a permit for transit transportation through the territory of the state following the Republic of Bulgaria on the route of the transit transportation, issued by the corresponding competent bodies.

(2) The documents shall be prepared by the sender of the goods or by an official empowered by him and shall be presented to the commission at latest 15 days before the entry of the goods on the territory of the Republic of Bulgaria.

(3) The permit or the refusal shall be announced to the applicant within term up to 10 days after the date of submitting the documents.

(4) The permit shall be valid under the conditions and till the expiry of the term pointed out in it but not more than 10 days for automobile transport and 15 days for railway transport.

(5) Within 10 working days term after the date of certifying the transit transportation the customs department of exit shall send one copy of the permit certified by it to the commission and to General Customs Directorate.

Art.34. (1) At execution of transit transportation of goods apart from the cases of art.33 an application for transit transportation shall be filled-in an according to appendix No 13.

(2) The application of para 1 shall be presented to the customs departments of entry and exit on the territory of the Republic of Bulgaria where its certification shall take place.

(3) Within 10 working days after the date of certifying the transit transportation the customs department of exit shall send one copy of the certified by it permit to the commission and to General Customs Directorate.

Chapter three

PROVISIONS FOR REVOCATION OF ISSUED LICENSES AND PERMITS FOR FOREIGN TRADE TRANSACTIONS

Art.35. (1) An issued license for foreign trade activity in arms and in dual-use goods and technologies and an issued permit for a particular transaction may be revoked respectively by the Interdepartmental council and the commission in case that:

1. the particular requirements or the activity within the framework of the issued license and permits for specific transaction do not comply with the requirements of the legislation of the Republic of Bulgaria and with the obligations taken by it in international agreements or ensuing from its membership in international organisations;
2. the foreign trade transactions with goods and technologies do not ensure protection of the national security and the foreign policy interests of the country and the strengthening of international confidence and stability;
3. the applicant has presented incorrect or incomplete data;
4. the activity does not coincide with the issued permit;
5. the applicant violates the requirements of art.4 of the Law on control of foreign trade activity in arms and in dual-use goods and technologies and of this regulation.

(2) The decision of the Interdepartmental council and of the commission for revocation of the licence and/or the permit shall not be subject to appeal against.

Chapter four CHECK OF THE EMPOWERED BODY

Art.36. The Interdepartmental council, the commission and General Customs Directorate shall have the right to check the fulfilment on behalf of the Bulgarian party the obligations in the transaction, ensuing from the regulation and the international agreements concerning the trade with arms and with dual-use goods and technologies.

Art.37. The Interdepartmental council, the commission and General Customs Directorate shall have the right to attract authorised specialists from other countries for implementing the procedure of control in compliance with obligations assumed by the Republic of Bulgaria in international agreements.

Art.38. The Interdepartmental council and the commission shall have the right to require a confirmation of the receiving of the goods subject to the export through the official representatives of the Republic of Bulgaria in the country of the end-user.

ADDITIONAL PROVISIONS

§ 1. "Arms" are articles, activities and services, included in the list of art.4, para 2 of the law.

§ 2. (1) The transportation of arms, dual-use goods and technologies to and from the territory of the Republic of Bulgaria respectively to Bulgarian border customs department of exit or entry may be executed by Bulgarian or foreign transport companies.

(2) The Bulgarian carriers shall be able to execute this activity only if they have received license by the Interdepartmental council.

(3) The license for transportation of arms and of dual-use goods and technologies shall be issued for one year.

(4) The foreign carriers or the companies using foreign carriers shall present document for

registration and a certificate for suitability of the transport means by which the transportation of arms and dual-use goods and technologies will be carried out.

(5) Bulgarian carriers as referred to in art.2 may execute transportation services in arms, respectively in dual-use goods and technologies to and from the territories of third countries after receiving a permit from the commission for each individual case, in coordination with the Ministry of transport. Such permit shall be required regardless of whether a person licensed under the stipulations of this Regulation participates in the foreign trade transaction with arms, respectively with dual-use goods and technologies.

(6) For execution of transportation services on the territory of the country while carrying out foreign trade transactions, permitted by the commission, the bodies of the Ministry of Internal Affairs issue a permit for transportation and perform control according to their competence in compliance with respective legal acts.

§ 3. (1) The Bulgarian transport companies applying to receive a license shall present to the Interdepartmental council the following documents:

1. an application;
2. a court certificate for registration of the company (firm);
3. a permit by the Ministry of Transport for transportation of arms and dual-use goods and technologies;
4. a document by the State inspectorate of shipping, State automobile inspectorate, State railway inspectorate and by the State aviation inspectorate, certifying the suitability of the transport means to carry arms and goods with potential dual use;
5. a document from the Ministry of Internal Affairs that the applicant is able to execute such transport services;
6. a copy of the documents, certifying the tax registration and the registration at the National Statistics Institute;
7. a document for fees paid.

(2) The license issued by the Interdepartmental council or the refusal to be issued a license shall be announced within 30 days after the date of submitting the application.

(3) Within 5 working days term the Interdepartmental council shall notify the commission, the Ministry of Transport, the Ministry of Internal Affairs and General Customs Directorate about the licenses issued or renewed.

§ 4. (1) In the cases as referred to in § 2, art.5 of the Additional Provisions Bulgarian carriers that apply to receive a permit shall present to the commission the following documents:

1. an application;
2. a filled-in permit form according to appendix N 8 and N 11 for transportation of dual-use goods and technologies;
3. a copy of the contract for transportation;
4. a permit for export issued by the competent bodies of the country of the seller;
5. a permit for import issued by the country of the buyer or the end-user;

(2) The permit issued by the commission or the refusal shall be announced within a 15 days term from the date of applying.

(3) Within a 5 working days term the commission shall notify the Ministry of Transport about issued or renewed licenses.

§ 5. The Ministry of Transport shall store information and perform control on Bulgarian carriers that have received a license from the Intradepartmental council and a permit from the commission for transportation in transactions with arms or with dual-use goods and technologies, in accordance with § 2 of the Additional Provisions.

TRANSITIONAL AND FINAL PROVISIONS

§ 6. The effect of the license and the permits issued before the regulation enters into force shall continue till the expiry of their validity and the contracts for transportation, concluded in connection with foreign trade activity in arms and dual-use goods and technologies till their termination.

§ 7. The regulation shall enter into force on the day of its promulgation in "State Gazette".