

SISTEM OF CONTROL OF EXPORT, IMPORT AND TRANSIT OF STRATEGIC GOODS IN THE REPUBLIC OF LATVIA

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1. Introduction

The objective of Latvia's export control policy is the non-proliferation of weapons of mass destruction and the means of their delivery; reduction of threats posed by the destabilising accumulations of conventional arms, dual-use goods and technologies thus ensuring that transfers of these items do not contribute to the development or enhancement of military capabilities which undermine international security and stability. Latvia is pursuing these objectives persistently and energetically, as a responsible member of the United Nations and OSCE, and consistent with our prospective membership of EU and NATO.

Latvia is a State - party to the all major non-proliferation and disarmament agreements and conventions. Latvia has signed (1992) the **Treaty on the Non-Proliferation of Nuclear Weapons**; signed and ratified (1996) the **Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC)**; ratified (1997) the adherence to the **Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction**; ratified (1997) accession to the **Supplementary Protocol of Convention on the Prohibition of Use or Limitation of Certain Kinds of Weapons Regarded as Weapons of Mass Destruction or Nonselective Action** and has signed (1993) the **Agreement with the International Atomic Energy Agency on the Application of Safeguards** in connection with the Treaty on the Non-Proliferation of Nuclear Weapons (Latvia has been a member of IAEA since 1997). Latvia has also signed the **Protocol Additional to the Agreement between Latvia and the IAEA for the Application of Safeguards**.

Latvia has fully supported the EU initiatives regarding the non-proliferation and control of arms. Latvia has aligned with the EU Joint Action 1999/34/CFSP On EU Contribution to Combating

the Destabilising Accumulation and Spread of Small Arms and Light Weapons; EU Code of Conduct on Arms Exports and EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms as these initiatives correspond to the arms control policies carried out by Latvia. The implementation mechanisms are incorporated in the respective Latvian laws.

Being an important transit country, Latvia carefully and strictly controls not just export and import, but also transit of strategic goods through its territory. In 1995 in accordance with the above mentioned agreements, conventions and initiatives, the government of Latvia introduced an export, import and transit control system based on the guidelines of Australia Group (AG), Nuclear Suppliers Group (NSG) and Missile Technology Control Regime (MTCR) and later made formal applications for membership in such international export control regimes as AG, NSG and the Wassenaar Arrangement. Latvia is updating its export control system constantly in accordance with new commitments undertaken by Latvia. In 1997 following a careful study of Latvia's export control system, Latvia was the only Baltic State to become a member of Nuclear Suppliers Group. By admitting Latvia as a member, the NSG has acknowledged that Latvia's export control enforcement capacities are efficient and in compliance with the standards set by international export control regimes.

2. Legal Basis of Latvian Export, Import and Transit Controls

Latvia has established a legal framework incorporating its above-mentioned international commitments with regard to arms control and non-proliferation. The following provides the legal basis for export, import and transit control:

- Regulation of the Cabinet of Ministers No. 429, December 23, 1997 "Regulation on the Control Committee of Strategic Goods";
- Regulation of the Cabinet of Ministers No. 421, December 16, 1997 "Regulation on the Control of Strategic Goods";
- Decision of the Control Committee of Strategic Goods, February 14, 2001 "On Lists of Goods, Production, Services and Technologies Which Require Licences for Export, Import and Transit".

3. Lists of Goods Subject to Export, Import and Transit Control

"Strategic Goods" are defined as goods, materials, equipment, technologies, software and services listed by the Control Committee of Strategic Goods (hereinafter - the Committee) and are subjects to export, import and transit control according to the Regulation on Control of Strategic Goods. The latest version of the lists of strategic goods adopted by the decision of the Committee on 14 February 2001 contains three lists:

1. List of Toxic Chemicals of the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC).
2. List of Arms, Weapons and Munitions.
3. List of Dual-Use Goods.

List 1 contains toxic chemicals of the schedules 1, 2 and 3 of the CWC.

List 2 is the Wassenaar Munitions List

Enforcement:

The Customs Department and the Security Police are responsible for the enforcement of the export, import and transit control. The Customs and Security Police co-operate closely with the Department and are linked to the databases of the Department.

The Customs perform the inspection of export, import and transit goods at random or on the basis of confidential information. The Department controls the use and storage of the imported strategic goods at random. Such checks may also be performed on the request of the export control authorities of exporting countries.

5. Export Restrictions

The Latvian export control system has no lists of sensitive destinations. Each application for an export license is considered individually, taking into account the end use company and Latvia's commitment to the EU Code of Conduct on Arms Export. Licenses for export of dual use goods to countries acquiring or developing weapons of mass destruction or the means for their delivery, to regions of military tensions, to countries in a state of war, civil war or practicing violations of human rights are issued only following careful pre-license checks and the receipt of the end use guaranties. The same applies to countries with export control systems not based on AG, MTCR, NSG or the Wassenaar Arrangement guidelines. As a rule licenses for export of military goods to such destinations are denied.

Needless to say, licenses are not issued for export to countries under current embargoes or sanctions of United Nations, European Union and OSCE.

6. Penalties for violation

The Criminal Code of Latvia provides the penalty of life imprisonment or imprisonment from 3 to 20 years for developing, producing, stockpile or otherwise acquire or retain any of nuclear, chemical, biological, bacteriological, toxic or any other weapons of mass destruction.

The Criminal Code of Latvia provides penalties for violation of the export control regulations - a fine or imprisonment of up to ten years, or both. The penalty for illegal handling of nuclear materials or sources of radiation, or Chemical Weapons Convention (CWC) toxic chemicals is imprisonment for up to five years.

In accordance with the Administrative Code of Latvia for providing false information or forged documents to the export control authorities in addition to the above-mentioned penalties also a fine may be imposed.

For less serious violations of export control regulations the Control Committee of Strategic Goods may refuse licenses to the guilty companies.

7. Types of licenses and licensing procedure

Every export, import or transit transaction of strategic goods to all destinations requires an individual license. The licenses and licensing procedure are the same for military and dual-use goods and there are no value or quantity limitations. Licenses are valid for 6 months.

8. Catch-All Clause

Non-listed items may be subject to control if the company is aware that they may be intended to be used for production, use or development of chemical, bacteriological, nuclear or other weapons of mass destruction and the means of their delivery or that could otherwise harm the international security. By signing the license the exporting company undertakes to notify the Committee if they are aware of the abovementioned facts. There is a legal obligation on an exporter to notify the Committee if he/she is aware that the goods are intended, in their entirety or in part, for any of these purposes.

9. Brokerage

Latvia fully shares the concern of the international community regarding the arms brokers' activities that may contribute to excessive and destabilizing accumulations of small arms and light weapons and ammunition. We believe that by the introduction of appropriate strict laws and regulations, and effective law enforcement controls the international community could effectively address the problem of unauthorized and illicit arms trafficking.

To that end, Latvia already established controls on arms brokering in 1997. According to the "Regulation on the Control of Strategic Goods" (December 16, 1997) a company must apply for a license for every export/import or transit transaction of strategic goods. The license is also required if goods are transferred by the company in transit outside the Republic of Latvia.

In order to obtain a license a company has to be registered in the Register of Enterprises of the Republic of Latvia and has to have a special permit (special permit (license)) for several specified entrepreneurial activities (arms, dangerous chemicals, sources of radiation etc.) if such permit is required according to the "Regulation on the licensing of the specific types of entrepreneurship" (October 7, 1997).

10. End - Use Guaranties

1) **End Use Certificates** are printed on standard form by the importing company and authorized by the Department.

By signing the Import Certificate and the End Use Certificate the importing company certifies that the goods shall not be used for production of weapons of mass destruction and means for their delivery, as well as acknowledges that it is aware that these goods are controlled in accordance with the laws of Latvia and the exporting country and that violation of those laws is a criminal offence. The importer also undertakes not to divert, re-export or trans-ship the goods without a written permission of the Department and the export control authorities of the exporting country, as well as to inform the export control authorities, in case it has come to their knowledge that the goods might be used for production of weapons of mass destruction or means for their delivery.

2) **Delivery Verification Certificates** are issued by the Department on request of the company within 10 days stating the date and place of arrival, mode of transport, the number of corresponding import certificate and customs declaration. By signing the Delivery Verification Certificate the Department undertakes to control the further use of goods by the company.

- 2) Decision of the Cabinet of Ministers "On Procedure of Issuing of Licenses for Activities Connected with Radioactive Substances and Sources of Radiation".
- 3) Decision of the Cabinet of Ministers "On Safe Transportation of Radioactive Substances".
- 4) Decision of the Cabinet of Ministers "On Protection Against Ionizing Radiation".
- 5) Decision of the Cabinet of Ministers "On Dosimetric Control of Cargo Crossing Latvian Borders".
- 6) Decision of the State Revenue Service "On Procedure of Information Exchange Between Customs Board and Department of Nuclear and Radiation Safety of State Environmental Inspection About Movement of Radiation Sources Across the Latvian Border".

At the moment the radiation control equipment is in use in all the major border crossing points on borders with Estonia, Lithuania, Belarus and Russia, as well as at sea ports and the Riga International Airport.

Customs officers of Latvia also have a number of various radiation detection devices including several monitors for the control of passengers and goods at the Riga International Airport and a mobile x-ray unit. The availability of the radiation control equipment at the borders is improving each year.

In practice when the source of radiation has been detected or found, the border guards stop the cargo and report to the Customs. The Customs get in touch with the Department of Radiation and Nuclear Safety that takes care of the source in accordance with the regulations. When necessary it performs the scientific investigation of the source and transports the goods to the burial site.

In accordance with the existing regulations normal level of radiation must not exceed 30 mkR/h to which the level of natural background level of some 15 mkR/h is added thus setting the threshold (*limit*) of 45 mkR/h.

In the course of 1999 border guards recorded 143 cases of radiation above this level for trucks and 319 cases for railway freight cars. In most cases the source of radiation turned out to be the natural radiation typical for some building materials or chemicals, especially fertilisers. Quite frequent are cases when persons undergoing treatment with radioactive substances cause high radiation level of 280-1500 mkR/h.

14. Control of Trade and Transfers of Small Arms and Light Weapons.

Latvia attaches great importance to the question of the uncontrolled manufacturing, accumulation and proliferation of small arms and light weapons (SALW) and we fully support the actions of the UN, EU, NATO and OSCE in this area.

As it was already mentioned before, the licensing procedures for military goods are the same as for dual use goods. The export, import and transit of SALW are done in accordance with the above-mentioned regulations as well as on bases of international commitments of Latvia. In this regard Latvia is implementing all relevant documents in the field of prevention of proliferation of SALW (United Nations Program of Action; OSCE Document on SALW; OSCE Document on Principles Governing Conventional Arms Transfers; EU Code of Conduct on Arms Exports; EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms; EU Joint

The US Department of State has provided the Export and Import Control Department with hardware and software for the export control licensing and information system "TRACKER". This system, when completed, will enable the computerized processing of licenses, record keeping and information exchange between the authorities involved in the export control. Currently the following institutions use "TRACKER": the Export and Import Control Department, two Police Departments, two Customs offices. The Department of Radiation and Nuclear Safety and the Department of Dangerous Chemicals and Waste of Inspection of the Environmental Inspection are linked, as well.

While the "TRACKER" system is still in the stage of implementation, the Department is using the said hardware for a computerized license processing and maintenance of data bases on items, parties and relations between them based on software "FileMaker Pro".

16. Public Awareness and Training of Experts

The Regulations and the lists of controlled goods are published in the official newspaper "Latvijas Vēstnesis". The same information with comments is published as a booklet by Latvian Development Agency - an organization that promotes export, import and investments - in co-operation with the Business Information Company "KOMIN".

The Export Control Department holds regular seminars and briefings on the export control policy for industry, customs and police officers. Some of those seminars were sponsored and attended by export control officials of the Federal Republic of Germany, the United States and Norway. The usual agenda of those seminars is as follows:

- news from international export control regimes;
- national export control policy;
- latest updates in export control rules and regulations;
- latest changes in the lists of controlled goods.

Experience shows that the key to successful and efficient export control is education of customs officers and representatives of industry with emphasis on identifying the goods and use of lists of controlled goods.

Export control officials, including policy and licensing officials, as well as technical experts are regularly attending workshops and meetings, which focus on export controls issues and non-proliferation within different frameworks. Latvia is actively participating in the regional activities as for example annual Nordic - Baltic states meeting on export controls; it has developed a very close cooperation with the United States in the area of non-proliferation of weapons of mass destruction, as well as with the EU and its Associated Countries in the area of export controls.