

THE REPUBLIC OF BULGARIA'S EXPORT CONTROL SYSTEM

The Republic of Bulgaria is engaged in a consistent and responsible export control policy in accordance with the country's commitment to the major and most advanced trends in this area.

The current Bulgarian export control system was established in 1995-1996 with the 1995 enactment of the Law on the Control of Foreign Trade Activity in Arms and in Dual-Use Goods and Technologies (LCFTADGT) and the Regulation for its implementation. Bulgaria's export control system consists of a system of laws, regulations, administrative procedures, enforcement institutions and mechanisms and obligations taken by the country under the international export-control and non-proliferation conventions and treaties. Bulgaria has ratified and fully implements all major conventions and treaties, concerning the WMD non-proliferation. Bulgaria has ratified the Geneva Protocol, which bans the CBW employment in war (in 1934), the Nuclear Non-proliferation Treaty (in 1969), the Biological and Toxin Weapons Convention (in 1972), the Chemical Weapons Convention (1994), the Comprehensive Test Ban Treaty (1996). Bulgaria has also signed the Additional IAEA Protocol (2001).

According to the article 5, par.4 of the Constitution of the Republic of Bulgaria "Any international instruments which have been ratified by the constitutionally established procedure, promulgated, and come into force with respect to the Republic of Bulgaria, shall be considered part of the domestic legislation of the country. They shall supersede any domestic legislation stipulating otherwise".

Bulgaria formerly aligned itself to the EU Code of Conduct on Arms Exports and committed itself to abide by all guidelines, decisions and positions related to arms transfers taken by the EU. In December 1998, Bulgaria made a political commitment to the EU Joint Action on SALW and in November 2000 it signed the OSCE Document on SALW. Bulgaria attaches great importance to the Security Council Resolution 1540 and the export control policy of Bulgaria is consistent with the highest international export control standards. After its accession to the MTCR in June 2004, presently the Republic of Bulgaria is member of all existing international export control regimes.

The functioning of the export control system of Bulgaria is determined by the next four basic principles:

- protection of the national security of the state;
- protection of the foreign political and economic interests of the state;
- strengthening of the international peace, security and stability;
- fulfilment of the international obligations of the Republic of Bulgaria.

The Bulgarian legislation in the area of export control includes the so-called "catch-all" clause, which follows the content of the identical provision in the EU *acquis*. From April 2001 the Bulgarian Government updates on a regular basis a List of countries and organizations towards which the Republic of Bulgaria applies prohibitions and restrictions on the sale and supply of arms and related equipment in accordance with the UNSC Resolutions and decisions of the EU and the OSCE. According to the provisions of the EU Code of Conduct, the Interdepartmental Commission is in the process of adopting the First Annual Report on the Implementation of the Bulgarian Export Control Policy which has to be presented to the Parliament and after that published.

The Bulgaria's national export-control system has a three-level structure:

1. Companies are first required to obtain a license to trade in arms and dual-use goods and technologies. This license is issued by the Interministerial Council on the Issues of Military

Industrial Complex and Mobilization Preparedness of the Country with the Council of Ministers;

2. Once a company has the trading license, it needs to obtain a permit for every single transaction that entails export, import, transit, and re-export of arms or dual-use goods. The permit is issued by the Interdepartmental Commission on Export Control and Non-Proliferation of Weapons of Mass Destruction with the Ministry of Economy;
3. The company is subject to a number of additional controls and permits that include:
 - A permit from the Control of Hazardous Devices Office of the National Police Service.
 - Inspection by the Customs Agency and National Security Service at specific border crossings.
 - Monitoring by the intelligence agencies within the Ministry of Economy and Ministry of Defence.
 - Monitoring of the export by the export control specialist within each licensed company.
 - The cargo shipping company also needs to be licensed by the Interdepartmental Council to transport arms to and from the territory of Bulgaria.
 - Defence and arms trade companies under the Ministry of Defence are obliged to obtain personal approval for all transactions from the Minister of Defence.

After 2000, there evolved the idea that the legal framework of the Bulgarian export control policy needs further development, in line with the best contemporary systems, which resulted in concrete steps for amending the LCFTADGT. That necessity was additionally amplified by the events of the 11th September 2001 and Bulgaria's adherence to the international anti-terrorist coalition, as well as in response to a serious challenge before the international community that could be defined as "globalisation of the international trade in arms and dual-use goods and technologies". As a result, on 18 July 2002, the National Assembly passed amendments and complements to the LCFTADGT. The following key amendments should be highlighted:

- Introduction of licensing regime for brokerage of foreign trade in arms and dual-use goods and technologies from and to the territory of the Republic of Bulgaria applying to for both Bulgarian and foreign individuals or legal entities;
- Introduction and definition of criteria for reliability of the physical and legal entities applying for license;
- Introduction of the principle of consensus in the decision-making process in the Interdepartmental Commission;
- Enhanced sanctions against possible violators;
- Improved pre and post shipment verification process.

The Bulgarian export control policy will continue to be focused on deterring any illegal arms transactions on the black and grey markets. The other priority in this policy is to ensure effective and irreversible criminal sanctions for the offences. In that context, the focus is on constant improvement of the legislative basis and enforcement of the legal basis with a view to generating sufficient conditions for maximum control on the broadest possible scope of participants in the foreign transactions, including carriers. It is intended to achieve top practical and financial effectiveness in the prevention of illegal transfers from/through the country's territory; wherefore, considerable efforts are concentrated in the investigations preceding the granting of a licence or permit (pre-checks).