

## **EXPORT CONTROLS OF ARMS, MILITARY MATERIAL AND DUAL-USE GOODS AND TECHNOLOGIES IN SLOVAKIA**

Export controls are an integral part of the Slovak foreign policy in the area of arms control, disarmament and non-proliferation. Slovakia considers export controls as a key element of the non-proliferation policy. The export control system in Slovakia consists of two primary areas - export controls of arms and military material, including small arms and light weapons, and export controls of dual-use goods and technologies. In carrying out the export controls, Slovakia strictly observes its international obligations, including UN and EU sanctions, and takes into account other relevant recommendations, including recommendations of multilateral export control regimes as well as the EU Code of Conduct on Arms Exports.

The system of export controls of arms and military material is governed by the Law No. 179/1998 on Trading in Military Material and it has been amended twice based on experience from its implementation.

The export controls of dual-use goods and technology is governed by the Law No. 26/2002 on the Control of Imports and Exports of and Brokering Activities with Goods and Technologies Subject to International Control Regimes. The law entered into force on February 1, 2002 and it is fully compatible with the EU legislation.

The above-mentioned laws lay down the principles of the system of granting licenses for trading in military material and dual-use goods and technologies, as well as brokering activities, transit and refurbishing. The current system of export controls in Slovakia meets the standard common in EU countries.

### **EXPORT CONTROLS OF ARMS AND MILITARY MATERIAL**

According to the law No. 179/1998 trade in, import, export, acquisition, mediation of trade or transportation of weapons of mass destruction, namely nuclear, chemical or biological weapons and their components, are explicitly prohibited.

To be eligible for trading in military material, the authorised person must be granted a permit from the Ministry of Economy. The authorised person must refrain from trading in military material if such a trade could harm Slovak foreign policy, security or trade interests, international commitments of the Slovak Republic or the interests of organisations and institutions, of which Slovakia is a member or which the Government of Slovakia recognises.

Licences for exports and imports are granted individually on a case-by-case basis. Authorised persons are obliged to apply for a licence for each case of import, export or trafficking activity. Licences are required for each case of refurbishing activity as well.

An applicant that has been granted a licence shall submit upon the request of the Ministry of Economy a post-shipment verification certificate to be issued by the relevant authority of the country of end user.

To be eligible for carrying out brokering activities with military material, the authorised person must be granted a permit from the Ministry of Economy. The authorised person to which the permit has been granted must keep detail records of each case of its brokering activity (for not less than five years) and inform the Ministry of Economy of the number and the scope of brokering activities over a given period.

With regard to the control of transit of military material through the territory of the Slovak Republic, a customs authority can restrict, stop or return the shipment to the exporter country, if so required by the foreign policy, security or trade interests of the Slovak Republic or the interests of other organisations and institutions of which the Slovak is a member or which the Government of the Slovak Republic recognises.

As far as licensing system is concern, a two-stage system of considering applications for licences for trading in military material was introduced. There are the Ministry of Economy, Ministry of Foreign Affairs, Ministry of Defence, Ministry of the Interior, and the National Security Office, as well as the Customs Directorate and intelligence agency involved in the process of reviewing individual applications. The system for the assessment of applications is based on a consensus. If there is no consensus at the first level (the expert level) of assessment, the application is submitted to a higher level. It consists of senior officials from the above-mentioned agencies. If no consensus is reached at the higher level, the Ministry of Economy will make a decision on the application taking into account the considerations of the above-mentioned agencies. The negative consideration of an application for an export licence by the Ministry of Foreign Affairs is obligatory for the Ministry of Economy and it results in denying the licence.

The Ministry of Foreign Affairs reviews on a case-by case basis every export licence application submitted by the exporter (authorised person). In the process of formulating its position, the Ministry considers each case separately in the context of bilateral and multilateral obligations of the Slovak Republic and in line with the priorities of the foreign policy approved by the Government. The UN and EU embargoes have the highest priority and it is explicitly prohibited by the Slovak legislation to violated them. Among other international obligation which are taken into account are regional embargoes (ECOWAS, etc.), relevant bilateral agreements, EU decisions (EU Code of Conduct on Arms Exports), positions of multilateral export control regimes (mainly Wassenaar Arrangement).

The Minister of Foreign Affairs has delegated the mandate and the responsibility to formulate a biding position of the Ministry to the General Director of the Division of the International Organisation and Security. Some cases, that cannot be decided at the level of the General Director, can escalate up to the level of the Minister of Foreign Affairs for taking a decision.

The Department of OSCE and Disarmament at the Ministry, with co-operation with other relevant divisions and departments (Division of Bilateral Co-operation, Division of EU Affairs, Department of Security Policy, Department of UN and Other Organisation in the UN System, Department of Human Rights, Department of International Economic Organisations) is responsible for summing up of all relevant information and composing a background material for taking up a foreign-policy standpoint.

The violation of the Law No. 179/1998 on Trading in Military Material might result in a penalty of up to 10 mil. Slovak Crowns and / or an imprisonment of up to 8 years. Apart from that, there can also be a penalty of up to 2 mil. Slovak Crowns for the violation of the Customs Law No. 618/1992.

### **EXPORT CONTROLS OF DUAL-USE GOODS AND TECHNOLOGIES**

To be eligible for trading in or carrying out brokering activity with controlled goods and technologies, the authorised person must be granted a permit from the Ministry of Economy. The Ministry shall grant an individual licence, an individual open licence, a general licence or a licence for brokering activity.

Upon the request from the Ministry of Economy, the Ministry of Foreign Affairs, Ministry of Defence, Ministry of the Interior, Ministry of Health, the Customs Directorate, the Nuclear Regulatory Authority and the intelligence agency make their considerations and recommendations on the application for granting the permit.

In performing the control of dual-use goods transit through the territory of the Slovak Republic, a customs authority can restrict, stop or return the shipment to the exporter country, if so required by the foreign policy, security or trade interests of the Slovak Republic or the interests of other organisations and institutions of which the Slovak is a member or which the Government of the Slovak Republic recognises.

The law on dual-use goods and technologies also introduces the catch-all clause and regulates intangible technology transfers.

The specification of dual-use goods is based on the list of goods subject to control used in the EU, which comprises the lists of goods under the Chemical Weapon Convention, multilateral export control regimes, the Wassenaar Arrangement, the Australian Group, the Missile Technology Control Regime (MTCR), and the Nuclear Suppliers Group (NSG).

The violation of the Law No. 26/2002 on dual-use goods might result in a penalty of up to 10 mil. Slovak Crowns (or up to an amount of 3 times of the value of goods if the value exceeds 10 mil. Slovak Crowns) and / or an imprisonment of up to 8 years. Apart from that, there can also be a penalty of up to 2 mil. Slovak Crowns for the violation of the Customs Law No. 618/1992.

Licence granting in the Slovak Republic is divided in two parts: granting of licences for export of military material and licences for export of the dual use goods and technologies. Both are administrated in line with valid legal acts.

Administrative procedure begins after receiving of application, which consists of application form and relevant documentation (e.g. commercial contract, end-user certificate etc.). If the application form or attached documentation is not complete, Ministry of Economy asks applicant for complement of missing facts.

Period stipulated by law for adopting of a decision on granting of the licence or denial of the application is max. 60 days in military material cases and max. 90 days in dual use goods and technologies cases. Practicly, when all legal conditions are fullfilled from applicant side we are able to decide approximately in 20 days.

All received applications are decided by the administration body called Permanent Expert Group, consisting of representatives of Ministry of Economy, Ministry of Foreign Affairs, Ministry of Interior, Ministry of Defense, Custom Directorate and Intelligence Service. During meeting of Permanent Expert Group its members formulate attitudes of substituted offices. Opinions from the central authorities shall be recommendatory in nature to the Ministry of Economy di decision – making on the granting of a licence save a negative opinion from the Ministry of Foreign Affairs on the grating of an export licence, which shall be binding upon the Ministry of Economy.

Military material from slovak teritory can export every entitled person, who is holding a permit to trade in military material. This permit is issued by the Ministry of Economy following the opinion from the Ministry of Foreign Affairs, Ministry of Defence, Ministry of Interior and National Security Office of the Slovak Republic. The holder of permit to trade in military material can be only a legal person, not natural person.

In year 2003 granted Ministry of Economy 159 licences for export of military material and 13 licences for export of the dual - use goods and technologies.

Control over observance of trading to military material and trading to dual use goods and technologies shall be carried out by the Ministry of Economy through its charged staff and called-in natural persons. International inspectors carrying out control under international treaties whereby Slovak Republic is bound can only carry out such control escorted by a charged Ministry of Economy staffer.

During this year were carried out several control on the spot through charged Ministry staffer in cooperation with custom authorities. For found failures mulcted the Ministry administrative sanctions in form of fines.