

The export control of dual use items and technology in Hungary

The Republic of Hungary is a member of all the non-proliferation regimes such as Australia Group, Wassenaar Arrangement, MTCR and NSG. Hungary signed and ratified the Biological and Toxic Weapons Convention and is a State Party in the Organization for Prohibition of Chemical Weapons.

Our membership in the previously mentioned regimes, as well as being a member state of the European Union, determines the legislative background applied in the field of dual use export control.

Legislative background: we apply the 1334/2000/EC regulation on the control of exports of dual-use items and technology.

Besides the EC regulation, we apply the Hungarian Governmental Decree 50/2004.(III.23), which entered into force after joining the EU. This does not only control the export of dual-use items and technologies, but regulates their import.

The Authority of Conventional Arms and Export Control (Department of Export Control) of the Hungarian Trade Licensing Office (HTLO) is the competent National Authority. HTLO is a central governmental body under the supervision of the Ministry of National Development and Economy.

Export:

The companies who perform controlled activities have to be registered at the Department of Export Control. To be registered, certain official documents must be presented and submitted. These include: notification of tax ID number, customs ID number, extract of court registry, etc. We would highlight that a well operating Internal Compliance Program is also required for the registration.

The annex of the EC Regulation gives a recommendation for the Export License. The Export License form is used as an application form. Additionally, the companies use the recommended form for an End-Use Certificate in case of export. Both forms can be downloaded from the website of the Office.

After receiving the application file, it has to be processed by the central registration of the Office, and is entered into a Tracker that is operated by the Department of Export Control. All the applications are recorded in Tracker so any of them can be researched anytime in the future. We have been using Tracker since 1999. Wider application of Tracker among the cooperating authorities needs to be enhanced.

Each application gets evaluated by two colleagues. One checks the classification of the item or technology and tries to find as much information as possible about the companies in the transaction. The other colleague checks the companies involved in the particular transaction in a denial database and carries out plausibility checks. In more complex cases Intelligence Services are requested to provide information on the planned transaction. But in all cases the Ministry of Foreign Affairs submits its legally binding position. In case of nuclear dual-use items, the National Atomic Agency's approval is required.

The colleagues keep records on their evaluation in Tracker. Meanwhile, anybody can track the progress of the licensing procedure. Afterwards, the Head of the Department makes a final determination on whether the application is approved or denied.

The applicant gets two original copies of the License. One of them is always used by Customs Authority to keep the record of the realized export, the exported items and its quantity.

An Individual Export License is valid for one year. The National Authority rarely issues Global Licenses that are valid for a certain exporter and for a group of items and a group of countries. (At the time being there is no National General License in effect.)

A decision has been made to review HTLO's (and of other cooperating authorities) practice, in order to tighten controls on ITT exports.

Import:

Clients have to apply for International Import Certificate, if the National Authority in the country of export sets it as a condition of issuing an Export License.

The forms for an International Import Certificate (IIC) are also available on the website of the Office. They can be downloaded in Word format, so it is very user-friendly. These forms are namely the International Import Certificate itself, the Delivery Certificate and the (End-) Consignee and Use Certificate.

The other case when it is essential to apply for an IIC is the transaction of chemicals listed in the Chemical Weapons Convention.

These applications and licenses are also recorded in Tracker.

The IIC and the other relevant documents are issued in three original copies. The IIC itself does not have a validity period but it has to be presented at the requesting Export Control Authority within 6 months after the date of issue.

International Transfer Certificate (ITC):

ITC shall be filled and submitted by the legal or natural person (registered in Hungary) that has transferred any chemical listed in CWC, either from the territory of the European Community to Hungary, or from Hungary to the territory of the European Community. This obligation relates only to the chemicals that are listed in the Schedule 1-3 of CWC. The completed form shall be submitted to the Office within 10 days after the transaction. This is to help the control of the chemicals inside of the Community, since the CWC prescribes the National Authorities to declare the foreign trade of the scheduled chemicals regardless whether it occurs inside or outside of the European Community.

On-site inspections:

The National Authority regularly inspects companies that are involved in controlled activities. At these occasions all relevant documents are checked on-site; and inspectors try to inspect the end-use of the imported items.

Authority of Export Control
Hungary