

**FIFTH REVIEW CONFERENCE OF THE
STATES PARTIES TO THE CONVENTION
ON THE PROHIBITION OF THE
DEVELOPMENT, PRODUCTION AND
STOCKPILING OF BACTERIOLOGICAL
(BIOLOGICAL) AND TOXIN WEAPONS
AND ON THEIR DESTRUCTION**

BWC/CONF.V/10
23 November 2001

Original: ENGLISH

Geneva, 19 November - 7 December 2001

**BACKGROUND INFORMATION ON THE COMPLIANCE
OF ARTICLE IV**

Brazil

LAW No. 9,112 DATED 10 OCTOBER 1995

Rules on the export of sensitive goods
and services directly linked thereto.

THE PRESIDENT OF BRAZIL

Hereby announces that the National Congress decrees and I sanction the following Law:

Article 1 – This Law regulates transactions related to the export of sensitive goods and services directly related to such goods.

§ 1 – Sensitive goods are taken as being goods for use in times of war, double-purpose goods, and goods for use in the nuclear, chemical and biological areas:

I – Goods for use in times of war are taken as being those defined by law as for the exclusive use by the Armed Forces or whose use is characteristic of these institutions, including the components, spares, accessories and supplies thereof;

II – Double-purpose goods are taken as being those whose use is widespread, provided that they are relevant for use in times of war;

III – Goods for use in the nuclear area are taken as being materials containing elements of interest for the development of nuclear power, such as the facilities and equipment used for their development, or for the countless peaceful uses of nuclear power;

IV – Chemical or biological goods are taken as being those which are relevant to any warlike application, and the predecessors thereof.

§ 2 – Services directly linked to these goods are taken as being the transactions involved in the supply of specific information or technology required for the development, production and use of the above-mentioned goods, including the supply of technical data or technical assistance.



GE. * 2 0 0 0 6 5 7 6 3 *

ENG

Article 2 – The goods covered by the previous Article will be including in the Lists of Sensitive Goods that will be periodically updated and published in the Federal Government Gazette (*Diário Oficial da União*).

Article 3 – The export of the following items will depend on prior formal authorization issued by the competent federal entities in compliance with the regulations established and published in the Federal Government Gazette (*Diário Oficial da União*):

I – Goods included on the Lists of Sensitive Goods; and

II – Services directly linked to goods included on the Lists of Sensitive Goods.

§ 1 – The exporter should submit documentary guarantees of destination or end-use to the coordination entity mentioned in the Sole Paragraph of Article 4, as deemed sufficient.

§ 2 – The competent federal entities may require exporters to provide copies of contracts or other documents deemed necessary to underpin their decisions on the transaction in question through the coordination entity, guaranteeing the necessary protection for the confidential nature of such documentation.

§ 3 – The competent federal entities may apply the provisions of this Article to other goods and services not covered by items I and II, provided that they are deemed to contribute either fully or partially to the development, production or use of weapons of mass destruction – nuclear, chemical or biological – or attack systems, including missiles loaded with such weapons.

Article 4 – Under the aegis of the Office of the President of Brazil, the Inter-Ministerial Commission for Controlling Exports of Sensitive Goods is established, consisting of representatives of the federal entities involved in the process of exporting the goods covered by this Law.

Sole Paragraph – The Strategic Affairs Bureau will exercise the function of the coordination entity, under the aegis of the Office of the President of Brazil.

Article 5 – The Inter-Ministerial Commission for Controlling Exports of Sensitive Goods is responsible for the following:

I – Proposing the control regulations, criteria, procedures and mechanisms to be adopted for the export of sensitive goods and services directly linked thereto, as covered by this Law;

II – Preparing, updating and disclosing the Lists of Sensitive Goods (Rectified);

III – Applying the administrative penalties as stipulated in Article 6 of this Law.

Sole Paragraph – Within its jurisdiction, the Commission should comply with the following requirements:

I – The interests of Brazilian foreign policy, national defense, technological empowerment and foreign trade; and

II – International treaties and commitments to which Brazil is a signatory.

Article 6 – The export of sensitive goods and services directly linked thereto, if in violation of the provisions of this Law and its Regulations, will subject the violator to the following penalties:

I - Warning;

II – Fine of up to twice the value equivalent to that of the transaction;

III – Loss of the goods covered by the transaction;

IV – Suspension of the right to export for a period of six months to five years;

V – Cancellation of qualification to work with foreign trade, in case of repeat offenses.

§ 1 – The warning will be issued in writing in the case of less serious violations that do not justify a more severe penalty.

§ 2 – The penalties stipulated in items II through V will be applied cumulatively.

§ 3 – The penalties stipulated in this Article will be applied taking into account the severity of the violation and the previous record of the violator, after an analysis of responsibilities through an administrative proceeding that ensures the defendant full right of legal defense.

Article 7 – Individuals who fail to comply with this law either directly or indirectly, through either action or omission, will be committing a crime.

Penalty – imprisonment of one to four years.

Article 8 – The Army Ministry will be responsible for assigning supervisory actions for controlled products covered by Decree No. 55,649 dated 28 January 1965.

Article 9 – In compliance with the conditions established in this Law, the Executive Authority will regulate export transactions for sensitive goods and services directly linked thereto.

Article 10 – This Law enters into effect on the date of publication thereof.

Brasília, 10 October 1995; 174th Year of Independence and 107th Year of the Republic.