

# **Law on the Control of Foreign Trade Activity in Arms and in Dual - Use Goods and Technologies**

## CHAPTER ONE

### General Provisions

#### Article 1

1. The present Law regulates the terms and procedure for the conducting of foreign trade activity in arms and in goods and technologies of potential dual use and state control over these activities.
2. Goods and technologies are deemed to be of potential dual-use when they can be used for both civil and military purposes.

#### Article 2

The conducting of foreign trade activity pursuant to Art 1 is subject to state control in order to ensure that national security and the foreign political interests of the state will be protected, international credibility and stability - strengthened and the international obligations of the Republic of Bulgaria-fulfilled.

#### Article 3

In order to ensure the attainment of the purposes referred to in Art 2 the government bodies, within the scope of their competence, may directly co-operate and exchange information with the corresponding competent authorities of other states, the signing of Cooperation Agreements included.

#### Article 4

1. The state may introduce restrictions and impose bans on the execution of foreign trade activity in arms and in dual-use goods and technologies when:
  - 1) the activity contravenes the purposes referred to in Art 2;
  - 2) the goods and technologies are intended or may be used for the development, production, operation, handling, maintenance, storage and dissemination of mass destruction weapons;
  - 3) the Republic of Bulgaria has acceded to international conventions on non-proliferation of the weapons or by virtue of membership in international organizations has undertaken such obligations, as well as in the event of sanctions in respect of a certain state, introduced by the Security Council of the UN.
2. The list of the arms and of the dual-use goods and technologies in respect whereof the regime to Para 1 is applied, shall be established by the Council of Ministers and shall be published in the State Gazette.

## CHAPTER TWO

### Foreign Trade Activity in Arms Regime

## Article 5

1. Foreign trade activity in arms may be solely effected by trade companies where Bulgarian equity participation exceeds 50 % under observance of the provisions of the present Law.
2. Foreign trade activity in arms is effected on the basis of a license granted for the execution of the respective activity and a permit for every individual transaction, issued by government bodies designated by the Council of Ministers and headed by Ministers.
3. The license and permit have a certain period of validity. The scope of the license is laid down by the body referred to in Para 2.

## Article 6

The requirements to be satisfied by the trade companies applying for a license and a permit and the terms for the revocation thereof are established in the Regulation on the Implementation of the present Law in accordance with the purposes referred to in Art 2.

## Article 7

1. Where necessary the government bodies to Art 5, Para 2 may request the opinion of other government bodies.
2. For the issue of licenses and permits and the performance of inspections the competent government bodies may designate experts who shall give their opinion on matters requiring specialist knowledge.
3. For the issue of the licenses and permits state fees shall be paid in amounts established by the Council of Ministers.

## Article 8

Transit transportation of arms through the territory of the Republic of Bulgaria shall be effected on the basis of a transit transportation license wherein the customs posts, route and time of transit shall be indicated. The license shall be issued on a case-by-case basis under the terms and procedure established in the Regulation on the Implementation of the present Law.

## CHAPTER THREE

### Foreign Trade Activity in Dual-Use Goods and Technologies Regime

## Article 9

1. Any person may carry out foreign trade activity in dual-use goods and technologies on observing the provisions of the present Law and in accordance with the Laws and Regulations in force.
2. Foreign trade activity in dual-use goods and technologies whereon restrictions have been introduced under Art 4, shall be effected on the basis of an individual transaction

permit, issued by a government body designated by the Council of Ministers and headed by a Minister.

3. Foreign trade activity in a certain type of goods and technologies, referred to in the List to Art 4, Para 2, shall be effected on the basis of a license granted by the body to Para 2. A transaction permit for this type of goods and technologies shall be issued to the licensee.

4. The licenses and permits to this Chapter are issued with a certain period of validity according to the terms and procedure established in the Regulation on the Implementation of the present Law.

#### Article 10

1. For the issue of an individual transaction permit a declaration of confirmation is required from the end-user in respect of the end-use of the dual-use goods and technology.

2. For the issue of licenses and permits and the performance of inspections the competent bodies may designate experts who shall give their opinion on matters requiring specialist knowledge.

3. For the issue of the licenses and permits state fees shall be paid in amounts established by the Council of Ministers.

#### Article 11

The body pursuant to Art 9, Para 2 shall deny the issue of or revoke a granted license or permit when:

- 1) the information relevant to the issuance thereof has not been submitted or the information submitted is false or incomplete;
- 2) the Applicant has not complied with the terms under which the license and permit have been granted within the established time-limit;
- 3) circumstances contravene the purposes referred to in Art 2;
- 4) circumstances, envisaged by the present Law, arise.

#### Article 12

Transit transportation of dual-use goods and technologies through the territory of the Republic of Bulgaria shall be effected on the basis of a transit transportation license wherein the customs posts, route and time of transit shall be indicated. The permit shall be issued on a case-by-case basis according to the terms and procedure established in the Regulation on the Implementation of the present Law.

#### Article 13

The issue of a permit for foreign trade activity in dual-use goods and technologies not listed in Art 4 shall be required when the exporter or importer is aware of, could have been aware of or has been informed in writing by the relevant bodies that:

1) the dual-use goods and technologies may be intended, in their entirety or in part, for the development, production, handling, operation, maintenance, storage, detection or dissemination of chemical, biological or nuclear weapons or for the development, production, maintenance or storage of missiles capable of delivering chemical, biological or nuclear weapons, covered by the international agreements for the prohibition or non-proliferation of such weapons;

2) dual-use goods and technologies are intended for a country in respect of which the Security Council of the UN has undertaken measures for the maintenance or re-establishment of international peace and security, or in respect of a country, in whose territory military operations are being conducted or which participates in a military conflict.

## CHAPTER FOUR

### Obligations of the Parties to Foreign Trade Activity

#### Article 14

The persons engaged in foreign trade activity in arms and in goods and technologies subject to control as stipulated in the present Law, are under the obligation to:

- 1) keep a separate register of the transactions effected as per the present Law, and retain transaction and transportation documents and the information related to the execution of the transaction for at least five years;
- 2) observe the terms and conditions under which this activity has been licensed, and immediately notify in writing the control bodies of any change thereof;
- 3) indicate the name, position and address of the representatives of the party to the transaction and of the end-user, in charge of the performance of the obligations to the transaction, and immediately notify of any replacement or change thereof;
- 4) inform the respective government bodies should a probability become apparent that the goods and technologies subject of foreign trade activity may be used in the way envisaged in Art 13.

#### Article 15

Importers and exporters of arms are under the obligation to incorporate a provision in the foreign commercial contract ensuring guarantees on the part of the buyer that the purchased arms may not be transferred to third natural or juridical persons without the express consent of the importer or exporter.

#### Article 16

The license and permit obtained under the present Law may be used solely by the grantee thereof. The transference of the license and permit or of rights thereof to a third party shall invalidate the said license and permit whereas the transferor shall thereby forfeit any rights arising from them.

## CHAPTER FIVE

### Control on the Observance of the Foreign Trade Activity in Arms and in Dual-Use Goods and Technologies Regime

#### Article 17

1. The control on the performance of the obligations and terms related to the issued license or permit under the present Law is enforced by the bodies issuing the license or permit and by other government bodies in accordance with their competence.
2. The enforcement of control includes inspections prior to and after the issue of the license and permit for foreign trade activity under the present Law.
3. In the enforcement of control the control bodies pursuant to Para 1 may:
  - 1) request information necessary to the enforcement of control;
  - 2) apply to the competent organs of other states for their submission of information necessary to the enforcement of control;
  - 3) perform inspections on the observance of the obligations of the parties to the transaction and of the end-user in the event of import.
4. The control bodies are under the obligation to keep in confidence any official, production or commercial secrets of the persons undergoing inspection.
5. In the presence of information about a committed crime the government body designated by the Council of Ministers shall refer the matter to the prosecution authorities.
6. Representatives of a foreign state may participate in the enforcement of control in accordance with the international obligations of the Republic of Bulgaria assumed under international agreements or by virtue of participation in international organizations.

#### Article 18

A written protocol on the results of the inspection shall be prepared. On the establishment of evidence of a committed crime, the official preparing the protocol shall forward a copy thereof to the prosecution authorities.

## CHAPTER SIX

### Administrative-Penal Provisions and Property Sanctions

#### Article 19

The natural persons engaged in foreign trade activity, the representatives of the parties to the transaction and of the end-user of arms or dual-use goods and technologies shall be penalized with a fine in amounts ranging from 50 000 to 500 000 leva on failure to perform their obligations referred to in Arts 14 and 15 if the perpetrated act is not a crime.

#### Article 20

The juridical persons engaged in foreign trade activity shall be penalized with property sanctions on failure to perform their obligations referred to in Arts 14 and 15, amounting to double the total transaction value, determined on the basis of the foreign commercial transaction data.

#### Article 21

On non-performance of other obligations arising from the present Law natural persons shall be penalized with a fine in amounts ranging from 25 000 to 250 000 leva unless they are subject to a heavier punishment, whereas juridical persons shall be penalized with a property sanction in amounts of up to 500 000 leva.

#### Article 22

1. The protocol on the establishment of violations is prepared by officials of the organs of control to Art 17, Para 1.
2. Penal decrees shall be issued by the Minister in charge of the respective body to Art 5, Para 2 and Art 9, Para 2.
3. The drawing up of the protocol on the establishment of administrative violations, the imposition of administrative penalties, the appeal against and the enactment of the penal decrees shall take place as prescribed by the Law on Administrative Violations and Penalties.

#### Additional Provision

§1. In exceptional events, should the state's national security or the performance of international obligations assumed by the state be jeopardized, or should the state's foreign political interests be infringed, the Council of Ministers may ban the carrying out of import, export, re-export or transit transportation of arms and dual-use goods and technologies, regardless of the issued license and permit.

#### Transitional and Final Provisions

§2. In Art 5, Subpara 3 of the Law on Economic Activity of Foreign Persons and on the Protection of Foreign Investment (publ. in the State Gazette, issue 8, 1992; amended issue 92, 1992 ) the words "and trade in" are replaced by the word "of".

§3. In the Criminal Code ( publ. SG, issue 26, 1968; amended issue 29, 1968; mod. and add. issue 92, 1969, issues 26 and 27, 1973, issue 89, 1974, issue 95, 1975, issue 3, 1977, issue 54, 1978, issue 89, 1979, issue 28, 1982; amended issue 31, 1982; mod. and add. issue 44, 1984, issues 41 and 79, 1985; amended issue 80, 1985; mod. and add. issue 89, 1986; amended issue 90, 1986; amended issues 37, 91 and 99, 1989, issues 10, 31 and 81, 1990, issues 1 and 86, 1991; amended issue 90, 1991; mod. issue 105, 1991, issue 54, 1992, issue 10, 1993 and issue 50, 1995 ) a new Article 233 is incorporated:

## Article 233

1. Anyone engaged in foreign trade activity in dual-use goods and technologies without respective authorization shall be penalized with imprisonment of up to 6 years and with a fine to the amount of up to 500 000 leva.
  2. For particularly serious offenses, referred to in Para 1, the penalty shall be imprisonment from 3 to 8 years and a fine to the amount of up to 1 million leva.
  3. For minor offenses, referred to in Para 1, the penalty shall be a fine to the amount of up to 50 000 leva.
  4. The dual-use goods constituting the subject of the crime shall be seized on behalf of the state irrespective of the fact whose property they are, or in the event of a lack or alienation thereof their equal value determined as per the foreign commercial contract shall be adjudged.
- §4. The present Law shall enter into force two months after its publication in the State Gazette.
- §5. The implementation of the present Law is assigned to the Council of Ministers that adopts a Regulation on its implementation within one month of its entry into force.

This Law was passed by the XXXVII National Assembly this 8-th day of November, in the year 1995 and the State Seal was affixed thereto.