

Defence-Related Products and Dual-Use Items and Technologies Export Control Act

Promulgated, State Gazette No. 26/29.03.2011, effective 30.06.2012, amended and supplemented, SG No. 56/24.07.2012, effective 24.07.2012, SG No. 93/27.11.2012, SG No. 9/31.01.2014, effective 31.01.2014

Text in Bulgarian: Закон за експортния контрол на продукти, свързани с отбраната, и на изделия и технологии с двойна употреба

Chapter One GENERAL PROVISIONS

Article 1. (1) This Act shall regulate:

1. the terms and procedures for export, import, transfer, transport, passage, carriage and transit of defence-related products, brokering services with them and the control over such activities;
2. the measures for implementing Council Regulation (EC) No. 428/2009 of 5 May 2009 on the introduction of a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ, L 134/1 of 29 May 2009) referred to hereinafter as "Regulation (EC) No. 428/2009" and dual-use items respectively;
3. the terms and procedures for dual-use items import and brokering activities with them and the control over these activities;
4. technical assistance provision for military end-use pursuant to Council Joint Action 2000/401/CFSP.

(2) The control under paragraph 1 shall be exercised for the purpose of protecting national security, the economic and foreign policy interests of the Republic of Bulgaria as well as for strengthening international peace and security and for implementing the Republic of Bulgaria's international obligations.

Article 2. (1) The Council of Ministers shall adopt a list of defence-related products to which the provisions herein shall apply and a list of dual-use items which shall be controlled on import. The lists shall be published in the State Gazette.

(2) The dual-use items, the export, brokering and transit of which shall be subject to control, are specified in Annex I of Regulation (EC) No. 428/2009.

(3) The dual-use items, the transfer of which shall be subject to control, are specified in Annex IV of Regulation (EC) No. 428/2009.

Article 3. Defence-related products and dual-use items shall not be subject to the control herein in the cases when they are:

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1. the property of Bulgarian or foreign armed forces or police contingents and they are transferred through the Republic of Bulgaria's borders or during their stay on the territory of the Republic of Bulgaria in the cases of:
 - a) fulfilment of obligations of the Republic of Bulgaria ensuing from international agreements and from membership in international organisations;
 - b) participation in peace-making, peace-keeping and peace-building operations;
 - c) participation in international exercises conducted in or outside the territory of the Republic of Bulgaria;
 - d) implementing humanitarian, environment-protection, sports and demonstration tasks of a peaceful nature;
2. for providing humanitarian assistance in case of a disaster or are part of a donation in case of emergency.

Article 4. The Council of Ministers may introduce restrictions and impose prohibitions on carrying out activities with defence-related products and dual-use items when:

1. the activities contradict the objectives and the obligations specified in article 1, paragraph 2;
2. the products and items are intended or may be used for creating, manufacture, processing, developing, managing, maintaining storing and distributing weapons for mass destruction;
3. there are restrictions or prohibitions ensuing from international agreements or from the Republic of Bulgaria's membership in international organisations;
4. these activities affect substantive interests of the Republic of Bulgaria in the security field or there are considerations related to maintaining public order.

Chapter Two

TERMS AND PROCEDURES FOR IMPORT, EXPORT, TRANSFER, PASSAGE, CARRIAGE AND TRANSIT OF DEFENCE-RELATED PRODUCTS AND BROKERING ACTIVITIES WITH THEM

Section I

General Requirements

Article 5. Export, import and transfer of defence related products may be done by:

1. natural and legal persons registered pursuant to the Commerce Act;
2. structures of the central administration of the executive headed by ministers, the National Security State Agency, the National Intelligence Service and the National Protection Service.

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Article 6. (1) (Amended, SG No. 9/2014, effective 31.01.2014) The persons under article 5, item 1 may engage in export and/or import of defence-related products after acquiring a licence issued by the Defence Industry and Supplies Security

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Interdepartmental Board at the Council of Ministers, referred to hereinafter as the "Interdepartmental Board", and an export or import authorisation issued by the Export Control and Non-Proliferation of Weapons of Mass Destruction Interdepartmental Commission under the Minister of Economy and Energy, referred to hereinafter as the "Interdepartmental Commission".

(2) (Amended, SG No. 9/2014, effective 31.01.2014) The persons under article 5, item 2 may engage in export and/or import of defence-related products without a licence after registering the import and/or export with the Minister of Economy and Energy or with persons authorised by him/her.

(3) The persons under Article 5, item 1 may engage in transfer of defence-related products from the territory of the Republic of Bulgaria to the territory of another member-state after obtaining a transfer registration certificate issued by the Interdepartmental Board and a general global or individual transfer authorisation issued by the Interdepartmental Commission.

(4) (Amended, SG No. 9/2014, effective 31.01.2014) The persons under article 5, item 1 may engage in transfer of defence-related products from the territory of the Republic of Bulgaria to the territory of another member-state after obtaining a transfer registration certificate issued by the Interdepartmental Board and after registering the transfer with the Minister of Economy and Energy or with persons authorised by him/her, when:

1. the recipient is a government organisation in a member-state;
2. the transfer is carried out between structures of the European Union, of NATO, of the International Atomic Energy Agency or between other intergovernmental organisations for the purpose of implementing their tasks.

(5) The provisions of paragraph 4 shall apply provided the transfer:

1. takes place under terms that do not jeopardise public order and security;
2. does not contradict the international obligations undertaken by the Republic of Bulgaria.

(6) (Amended, SG No. 9/2014, effective 31.01.2014) The persons under article 5, item 2 may supply defence-related products from the territory of the Republic of Bulgaria to the territory of the receiving state after registering the transfer with the Minister of Economy and Energy or with persons authorised by him/her.

(7) (Amended, SG No. 9/2014, effective 31.01.2014) The persons under article 5, item 2 may receive defence-related products from the territory of a member-state of origin after declaring the transfer at the Ministry of Economy and Energy under a procedure specified in the regulation on implementing this Act.

(8) (Amended, SG No. 9/2014, effective 31.01.2014) The persons under article 5, item 1 may receive defence-related products specified in the general transfer authorisation issued and published by the member-state of origin after obtaining a recipient certificate issued by the Interdepartmental Board and after declaring the transfer at the Ministry of Economy and Energy under a procedure specified in the regulation on implementing this Act.

(9) (Supplemented, SG No. 93/2012, amended, SG No. 9/2014, effective 31.01.2014) The persons under article 5, item 1 may receive defence-related products from a supplier who holds an individual or global authorisation issued by the member-state of origin after obtaining a transfer registration certificate from the Interdepartmental Board and after registering the transfer with the Minister of Economy and Energy or with persons authorised by him/her under a procedure specified in the regulation on implementing this Act.

Article 7. The persons under article 5, paragraph 1 may transport defence-related products from the territory of one third state to the territory of another third state without entry into the Republic of Bulgaria on the basis of a licence issued by the Interdepartmental Board.

Article 8. (1) No authorisation shall be required for the transit of defence-related products through the territory of the Republic

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of Bulgaria when the state of the supplier has issued a transfer authorisation or when the state of the supplier does not require a transfer authorisation.

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(2) No authorisation shall be required for the entry into the territory of the Republic of Bulgaria of defence-related products when the recipient is a person under article 5 and the state of the supplier has issued a transfer authorisation or when the state of the supplier does not require a transfer authorisation.

(3) Carriage through the territory of the Republic of Bulgaria of defence-related products which are exported or imported by a member-state different than the Republic of Bulgaria, to and from a third state respectively, shall be done on the basis of an authorisation issued by the Interdepartmental Commission.

Article 9. Transit of defence-related products shall be done on the basis of an authorisation issued by the Interdepartmental Commission.

Article 10. (1) Brokering activities with defence-related products may be performed by:

1. the persons under article 5, paragraph 1;
2. (Supplemented, SG No. 93/2012) Bulgarian citizens with the exception of ones residing on the territory of another state;;
3. citizens of other states, residing on the territory of the Republic of Bulgaria;
4. citizens of the European Economic Area, residing on the territory of the Republic of Bulgaria;
5. citizens of a third state who have obtained a permanent residence permit in the Republic of Bulgaria.

(2) Brokering activities with defence-related products shall be carried out after registration by the Interdepartmental Board and after obtaining a brokering transaction authorisation issued by the Interdepartmental Commission.

(3) The provisions of paragraph 2 shall apply also in the cases where the persons under paragraph 1, items 1 and 2 engage in brokering activities outside the territory of the Community.

(4) The provisions of paragraph 2 shall apply also in the cases where the persons under paragraph 1 engage in brokering activities on the territory of the Republic of Bulgaria on behalf of other natural or legal persons.

Article 11. (Amended, SG No. 9/2014, effective 31.01.2014) The procedure for issuing licences, performing registrations and issuing recipient certificates by the Interdepartmental Board, issuing of authorisations by the Interdepartmental Commission and carrying out registrations with the Minister of Economy and Energy shall be determined in the regulation on implementing this Act.

Article 12. (1) The Interdepartmental Board and the Interdepartmental Commission shall be headed by ministers.

(2) (Supplemented, SG No. 56/2012, effective 24.07.2012, amended, SG No. 9/2014, effective 31.01.2014) The composition and the procedure for the operation of the Interdepartmental Board and the Interdepartmental Commission shall be determined by the Council of Ministers and the composition of the Interdepartmental Commission shall include representatives of the Ministry of Economy and Energy, the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of Interior and the National Security State Agency.

(3) The bodies under paragraph 1 may require the opinion of other state bodies as the case may be.

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(4) In discharging their functions the bodies under paragraph 1 may carry out inspections and employ experts.

Section II

Licensing for Export and Import, for Transportation of Defence-Related Products, Certifying Recipients of Defence-Related Products and Registration for Transfer and Brokering Activities with Defence-Related Products

- Article 13.** (1) Export, import and transportation licences for defence-related products, recipient certificates for defence-related products, transfer registration certificates and certificates for brokering activities with defence-related products shall be issued by the Interdepartmental Board on a sample form for a specific period.
- (2) (Supplemented, SG No. 9/2014, effective 31.01.2014) The rights under the licence, the recipient certificate and the registration certificate cannot be transferred or ceded including in cases of transformation, with the exception of change of the legal form, of the licensed, certified or registered trader.
- (3) (Amended and supplemented, SG No. 9/2014, effective 31.01.2014) The initial licence for export and import for transportation and recipient certificate shall be issued with a validity term of one year. After the expiry of this period any subsequent recipient certificate shall be issued for a term of three years and any subsequent license shall be issued for a term of five years.
- (4) (Amended, SG No. 9/2014, effective 31.01.2014) Registration certificates for transfer and for brokering activities with defence-related products shall be issued for a term of five years.
- (5) (Amended, SG No. 9/2014, effective 31.01.2014) Export and import licenses, transportation licences, recipient certificates and transfer registration certificates shall be issued to persons under Article 5, paragraph 1 complying with the requirements for reliability and economic soundness.
- (6) The following shall be entered in the licence, the recipient certificate and the registration certificate: the name of the issuing body, the name and the address of the recipient, a statement of the issuing body that the recipient conforms to the conditions for issuing the respective document, the date of issue and the validity term of the document as well as the conditions relating to the provision of information required for verification of the compliance with the criteria for issuing the respective document and for suspending or revoking the document.
- (7) Licences, recipient certificates and registration certificates shall be issued in two copies. The first copy shall be given to the applicant and the second one shall be kept at the Interdepartmental Board.

Article 14. (1) The persons applying for the issue of import and export licence for defence-related products shall submit to the Interdepartmental Board:

- 1 an application form;
2. unified identification code pursuant to article 23 of the Commercial Register Act;
3. (repealed, SG No. 9/2014, effective 31.01.2014);
4. (amended, SG No. 9/2014, effective 31.01.2014) a document issued by the National Security State Agency on clearing the natural persons under item 5;
5. (amended, SG No. 9/2014, effective 31.01.2014) a list of the natural persons appointed to participate in this activity, including persons who manage and/or represent the applicant, accompanied by CV's of the persons and previous convictions certificates;

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6. (amended, SG No. 9/2014, effective 31.01.2014) a previous convictions certificate of the members of the managing or of

the executive board who do not represent the company and of the members of the supervisory board, and in case the members are legal persons - of their agents in the respective managing body;

7. (amended, SG No. 9/2014, effective 31.01.2014) a notarised sample signature of the persons under item 5;

8. a certificate from the respective National Revenue Agency territorial directorate on the absence of liquid and executable public liabilities;

9. a statement by the sole trader, the manager, the executive officer, the procurator, the members of the managing and control bodies of the legal persons that the applicant has no liquid and executable liabilities to natural or legal persons when the liability has been recognised before the enforcement execution body;

10. a statement by the sole trader, the manager, the executive officer, the procurator, the members of the managing and control bodies of the legal persons that they are not related to persons and organisations which have violated the normative acts regulating the activities with defence-related products and with dual-use items in the member-states and in third states;

11. (amended, SG No. 9/2014, effective 31.01.2014) information from the trader on the planned foreign trade operations with foreign partners, including specific categories and sub-categories of defence-related products and specific destinations for a period of at least one year;

12. (new, SG No. 93/2012) a description of the internal control and compliance system and of the export / import management system approved by a senior manager; the description shall contain information on the organisational, human and technical resources assigned to export/import management, the chain of responsibility in the company structure, the internal audit procedures, the company awareness raising system, the rules and procedures for ensuring physical and technical safety, the operating system for document storage and for tracing export and import;

13. (new, SG No. 9/2014, effective 31.01.2014) a document on the share owned in the capital stock of the foreign person according to the registration in the country of its seat, issued by a competent authority of the state where the person is established or registered - in case there is share ownership by a foreign person in the capital stock of a person under article 5, item 1;

14. (renumbered from Item 12, SG No. 93/2012, renumbered from Item 13, SG No. 9/2014, effective 31.01.2014) a document for paid state fees under article 71, paragraph 1.

(2) The persons applying for issuing a transportation licence for defence-related products shall submit to the Interdepartmental Board:

1. an application form;

2. (amended, SG No. 93/2012, SG No. 9/2014, effective 31.01.2014) the documents under paragraph 1, items 2, 4-11, 13 and 14;

3. a certificate or a document issued by the competent authority of the Ministry of Transport, Information Technologies and Communications to engage in the respective transport activities.

4. (new, SG No. 93/2012) a description of the internal control and compliance system and of the transport management system approved by a senior manager; the description shall contain information on the organisational, human and technical resources assigned to transport management activities, the chain of responsibility in the company structure, the internal audit procedures, the company awareness raising system, the rules and procedures for ensuring physical and technical safety, the operating system for document storage and for tracing transport activities.

Article 15. (1) The persons applying for a recipient certificate shall submit to the Interdepartmental Board

1. an application form;

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2. (amended, SG No. 93/2012, SG No. 9/2014, effective 31.01.2014) the documents under article 14, paragraph 1, items 2, 4 - 11, 13 and 14;

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3. a copy of the authorisation for manufacture and/or trade issued under the Weapons, Ammunitions, Explosives and Pyrotechnical Products Act in case the defence-related products that are subject to transfer fall within its scope or addresses of manufacturing facilities or warehouses for storage of defence-related products;
4. documents providing information on the manufacturing capacity for integration of the defence-related products received by transfer in systems and sub-systems;
5. a statement by a senior official responsible for the transfer and exports of the company that the company shall:
 - a) take all necessary measures to comply with and implement the specific conditions relating to the end-use and export of any received specific component or product;
 - b) conform with any restrictions on subsequent export of defence-related products received by transfer;
 - c) provide to the competent authorities detailed and exhaustive information in response to requests and enquiries concerning the end-users or the end-use of any products exported, transferred or received by the company under a transfer authorisation from another member-state;
6. (amended, SG No. 93/2012) a description of the internal control and compliance system and of the export or transfer management system approved by the person under item 5; the description shall contain information on the organisational, human and technical resources assigned for transfer and export management, the chain of responsibility in the company structure, the internal audit procedures, the company awareness raising system, the rules and procedures for ensuring physical and technical safety, the operating document storage system and for tracing transfers and exports.

Article 16. (1) (Previous Article 16, SG No. 9/2014, effective 31.01.2014) The persons applying for transfer registration shall submit to the Interdepartmental Board:

1. an application form;
2. (amended, SG No. 93/2012, SG No. 9/2014, effective 31.01.2014) the documents under article 14, paragraph 1, items 2-11, 13 and 14;
3. (new, SG No. 93/2012) a description of the internal control and compliance system and of the transfer management system approved by a senior manager; the description shall contain information on the organisational, human and technical resources assigned to transfer management, the chain of responsibility in the company structure, the internal audit procedures, the staff qualification raising system, the rules and procedures for ensuring physical and technical safety, the operating document storage and transfer tracing system;

(2) (New, SG No. 9/2014, effective 31.01.2014) The persons under article 5, item 1, holding a valid license for export and import of defence related products or a recipient certificate, may obtain a registration certificate for transfer of defence related products by submitting only the documents under article 14, paragraph 1, items 1 and 14.

Article 17. (1) The persons under article 5, item 1 applying for brokering activities registration shall submit to the Interdepartmental Board:

1. an application form;
2. (amended, SG No. 93/2012, SG No. 9/2014, effective 31.01.2014) the documents under article 14, paragraph 1, items 2, 4 - 11, 13 and 14;
3. (new, SG No. 93/2012) a description of the internal control and compliance system and of the brokerage management system approved by a senior manager; the description shall contain information on the organisational, human and technical

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resources assigned to brokerage management, the chain of responsibility in the company structure, the internal audit procedures, the company awareness raising system, the rules and procedures for ensuring physical and technical safety, the operating document storage and brokerage transactions tracing system;

(2) The persons under article 10, paragraph 1, items 2-5 applying for brokering activities registration shall submit to the Interdepartmental Board:

1. an application form;
2. a certified copy of an identity document;
3. a notarised signature specimen;
4. a document issued by the National Security State Agency on clearing the person;
5. a previous convictions certificate or an equivalent document issued by the state of the person's permanent residence;
6. a certificate from the respective territorial directorate of the National Revenue Agency on the income and the absence of liquid and executable public liabilities;
7. a statement that the person has no liquid and executable liabilities to natural or legal persons when the liability has been recognised before the enforcement execution body;
8. a statement that the person is not related to persons and organisations which have violated the normative acts regulating the activities with defence-related products and with dual-use items in the member-states and in third states;
9. information from the person on the planned foreign trade operations with foreign partners with defence-related products for a period of at least one year;
10. (new, SG No. 93/2012) a description of the internal control and compliance system and of the brokerage management system approved by the persons under article 10, paragraph 1, items 2 - 5; the description shall contain information on the organisational and technical resources assigned to brokerage management, the awareness raising measures, the rules and procedures for ensuring physical and technical safety, the operating document storage and brokerage operations tracing system;
11. (renumbered from Item 10, SG No. 93/2012) a document for paid state fees under article 71, paragraph 1.

(3) (Amended, SG No. 93/2012) The persons under article 5, paragraph 1 who hold an export and import licence for defence-related products or a recipient certificate may obtain a brokering activities registration certificate under article 10 by submitting only the documents under article 14, paragraph 1, items 1 and 13.

Section III

Issuing and Amending A Licence, A Recipient Certificate or A Registration Certificate. Refusal to Issue and to Register, Suspension, Termination or Revocation of A Licence, A Recipient Certificate or Deletion of A Registration

Article 18. (1) The Interdepartmental Board shall make a substantiated decision to issue a licence, a recipient certificate and/or a registration certificate within 30 days from the date of receiving the application and the accompanying documents. The decision shall be communicated to the applicant within seven working days of the date of its adoption.

(2) Should omissions or irregularities be found in the submitted documents the applicant shall be notified in writing within seven working days of the date the documents are received with instructions to correct them. In this case the term under paragraph 1 shall be suspended as of the date the notification is sent to the applicant and shall be resumed as of the date of receipt of the documents confirming the correction of the omissions and/or irregularities.

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(3) (New, SG No. 9/2014, effective 31.01.2014) The Interdepartmental Board may extend the term under paragraph 1 by no more than 30 days when additional information is required related to the application and the accompanying documents. In such

cases the Interdepartmental Board shall, within seven working days of adopting the decision, notify the applicant of the extension and the reasons thereof.

Article 19. (1) The issued licence, recipient certificate or registration certificate may be amended by the Interdepartmental Board:

1. on request by the person who is licensed, certified or registered;
2. in case of amendment of the normative requirements related to the licence, recipient certificate or registration certificate;
3. in case of changes in the circumstances under which the licence, recipient certificate or registration were issued.

(2) (Supplemented, SG No. 9/2014, effective 31.01.2014) In case of changes in the circumstances entered in the application and in the accompanying documents under which the licence, recipient certificate or registration certificate were issued the person who is licensed, certified or registered shall be obliged to submit an application to the Interdepartmental Board within 14 days of the occurrence of the change.

(3) (Amended, SG No. 9/2014, effective 31.01.2014) The documents evidencing the change shall be enclosed with the application under paragraph 2.

(4) (New, SG No. 93/2012, amended, SG No. 9/2014, effective 31.01.2014) The licensed, certified or registered person shall be obliged to submit to the Interdepartmental Board the required documents under articles 14-17 related to the change within 60 days of submitting the application under paragraph 2.

(5) (Renumbered from Paragraph 4, SG No. 93/2012, amended, SG No. 9/2014, effective 31.01.2014) The Interdepartmental Board shall review and make a decision on the submitted documents under paragraphs 3 and 4 under the procedure and within the terms of article 18 by entering the change in the respective register and/or by issuing an updated license, recipient certificate or registration certificate as the case may be.

(6) (New, SG No. 9/2014, effective 31.01.2014) The recording of a change in the register and the issuing of an updated license, recipient certificate or registration certificate shall take place only in case of changes in the information recorded in the register or in an issued licence or certificate.

(7) (New, SG No. 9/2014, effective 31.01.2014) The person holding a license, certificate or registration shall pay a fee under article 71, paragraph 1 only when the Interdepartmental Board reviews a change in circumstances requiring the issue of an updated license, recipient certificate or registration certificate.

Article 20. (1) The Interdepartmental Board shall refuse with a substantiated decision to issue or amend a licence or a recipient certificate or to make registration when:

1. there are circumstances contradicting the objectives and obligations specified in article 1, paragraph 2;
2. (new, SG No. 93/2012) failure to submit any of the required documents under article 14 - 17 and/or 19;
3. (renumbered from Item 2, amended, SG No. 93/2012) the information in the application and the documents attached thereto does not conform with the requirements of articles 14 - 17 or 19, or is incomplete or false.

(2) In case of refusal a new application for issuing a licence, a recipient certificate or a registration certificate may be submitted only after the circumstances for the refusal to issue a licence or a recipient certificate or to make registration no longer exist.

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Article 21. (1) The Interdepartmental Board shall suspend with a substantiated decision the validity of a licence or a recipient certificate or a registration certificate when:

1. there is noncompliance with or violation of the terms in the licence, the recipient certificate or the registration certificate;
2. changes have occurred in the circumstances under which the licence, the recipient certificate or the registration certificate were issued and the licensed, certified or registered person no longer complies with the requirements for reliability and economic soundness;
3. there is noncompliance with an obligation provided for herein established with an act of a competent state authority.

(2) The Interdepartmental Board shall suspend the validity of a licence, a recipient certificate or a registration certificate for a period of up to six months during which time the performance of the activity shall be prohibited until the breach of the requirements is remedied.

(3) If the Interdepartmental Board is not informed in writing by the licensed, certified or registered person within the time limit under paragraph 2 that the irregularities that caused the suspension of the licence, the recipient certificate or the registration certificate have been remedied, the issued licence or recipient certificate shall be revoked or the registration shall be deleted and the issued certificate shall be rendered null and void.

Article 22. (1) The Interdepartmental Board shall revoke with a substantiated decision the licence or the recipient certificate or delete the registration:

1. on the occurrence of circumstances that contradict the objectives and obligations in article 1, paragraph 2;
2. when the licensed, certified or registered person has submitted false documents or untruthful information which have served as the basis for the issue of the licence, the recipient certificate or the registration certificate;
3. when the licensed, certified or registered person has perpetrated systematic violations of this act;
4. (supplemented, SG No. 9/2014, effective 31.01.2014) when a person who manages and/o represents the licensed, certified or registered person according to the commercial registration has been convicted with an effective court act for a crime of a general nature;
5. in the cases under article 21, paragraph 3.

(2) The decision on revoking the licence or the recipient certificate or on deleting the registration shall set a term not exceeding than two years within which the person shall not be eligible to apply for the issue of a new licence or a recipient certificate or a registration for the same activity.

Article 23. The Interdepartmental Board shall terminate with a substantiated decision a licence or a recipient certificate or shall delete a registration:

1. on a written application of the licensed, certified or registered person;
2. on the deletion of the commercial registration of the natural or legal person;
3. in case of demise of the natural person - sole trader;
3. in case the natural person- sole trader is legally disabled;
5. in case the trader is declared bankrupt or in liquidation.

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Article 24. (1) The decisions under articles 20, 21, 22 and 23 shall be subject to appeal under the procedure of the Administrative Procedure Code.

(2) The appeal under paragraph 1 shall not suspend the execution of the administrative act.

Article 25. The Interdepartmental Board shall notify within five working days the Central Customs Office of the Customs Agency and the Interdepartmental Commission of the issued and amended licences, recipient certificates and registration certificates, and of the suspended, revoked and terminated licences and recipient certificates and of the deleted registrations.

Article 26. (1) The Interdepartmental Board shall establish and maintain a public register in which the issued and amended licences, recipient certificates and registration certificates, the suspended, revoked and terminated licences and recipient certificates and the deleted registrations shall be entered.

(2) The following information shall be entered in the register under paragraph 1:

1. the name, seat and registered office of the person which according to the commercial registration represents the licensed, certified or registered person;;
2. the unified identification code of the persons under article 5, paragraph 1 or the names of the persons under article 10, paragraph 1, items 2-5;
3. the number and date of the issued licence, recipient certificate, registration certificate and their validity term;
4. the grounds for suspending, amending, revoking or terminating the licence or the recipient certificate or for deletion of the registration.

Article 27. (1) The Interdepartmental Board shall provide to the European Commission, the European Parliament and the other member-states updated information on the certified recipients of defence-related products.

(2) The Interdepartmental Board shall provide to the European Commission and the other member-states updated information on the suspended, revoked and terminated recipient certificates.

Section IV

Authorisation for Export, Import, Brokering Transactions and Transit of Defence-Related Products

Article 28. (1) Export or import of defence-related products specified in the list under article 2, paragraph 1 shall be done after the issue of an individual or global authorisation.

(2) An individual authorisation shall be issued for exports or imports to or from a specific state through a single delivery or through partial deliveries on the basis of contractual relations between the exporter or the importer and the foreign counterpart. The issued authorisation shall be with a validity term of up to one year and may be extended once for a period of up to six months.

(3) A global authorisation shall be issued for exports or imports, to exporters or importers respectively, for one or more states

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according to the annex, of a specific type or category of defence-related products specified in the list under article 2, paragraph 1, with the exception of defence-related products falling within the scope of international agreements and conventions for prohibition of the proliferation of weapons for mass destruction, as well as of defence-related products whose development,

characteristics, use and/or registration fall within the scope of the Classified Information Protection Act. The issued authorisation shall be with validity term of up to two years and may be extended once for a period of up to one year.

(4) Authorisation for provisional export and re-import or for provisional import and re-export of defence-related products intended for participation in trade exhibitions shall be issued to persons under article 5, item 1, holding a licence under article 13, paragraph 1, under a procedure determined with the regulation on implementing this Act.

Article 29. Authorisation for brokering transactions shall be issued for a validity term of up to one year and may be extended for a period of up to six months.

Article 30. Authorisation for carriage and transit of defence-related products through the territory of the Republic of Bulgaria shall be issued under a procedure determined with the regulation on implementing this Act.

Section V

Authorisation for Transfer of Defence-Related Products

Article 31. (1) Transfer from the territory of the Republic of Bulgaria to the territory of another member-state of defence-related products specified in the list under article 2, paragraph 1 shall be carried out after the issue of an individual, global or national general authorisation for transfer.

(2) An individual transfer authorisation shall be issued to persons under article 5, item 1 for transfer of a specific quantity of defence-related products to a specific recipient in a member-state through a single or through several partial deliveries on the basis of contractual relations between the supplier and the recipient. The individual transfer authorisation shall be with validity term of up to two years and may be extended once for a further year.

(3) An individual authorisation shall be issued when:

1. the request for transfer authorisation is limited to one transfer;
2. there are considerations for protecting interests in the field of security or public order;
3. this is necessitated for the implementation of international obligations and commitments to which the Republic of Bulgaria is a party;
4. the Interdepartmental Commission has grounds to believe that the supplier is not in a position to fulfil the terms and procedures of the global transfer authorisation.

(4) A global transfer authorisation shall be issued to persons under article 5, item 1 for transfer of a specific quantity of defence-related products to several recipients in one or more member-states. The global transfer authorisation shall be with a validity term of three years and may be extended once for the same period.

(5) (Amended, SG No. 9/2014, effective 31.01.2014) A national general transfer authorisation shall be issued by the Interdepartmental Commission and shall be published on the web page of the Ministry of Economy and Energy when:

1. the recipient is part of the armed forces of another member-state or is a contractual authority in the field of defence

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purchases of defence-related products intended for use only by the armed forces of the member-state;

2. the recipient is certified as a recipient of defence-related products pursuant to the national law of another member-state;

3. the transfer is carried out for the purpose of evaluation, exhibition or demonstration;
 4. the transfer is carried out for the purpose of maintenance or repairs of defence-related products to a recipient who was their original supplier;
 5. the transfer is carried out for the purpose of implementing an intergovernmental programme for cooperation in the development, manufacture or use of one or several defence-related products to other member-states participating in the programme.
- (6) The type or categories of defence-related products as well as the category(ies) of recipients in another member-state shall be specified in the authorisation under paragraph 5.
- (7) The authorisation under paragraph 5 may include recipients in more than one member-state when the transfer is required for implementing an intergovernmental programme for cooperation in the development, manufacture or use of one or several defence-related products.
- (8) The scope of the authorisation under paragraph 5 in relation to the defence-related products that are included in it and the terms related to its use shall be determined by the Interdepartmental Commission.

Section VI

Registration of import, Export and Transfer of defence-related products

Article 32. (1) (Amended, SG No. 9/2014, effective 31.01.2014) The persons applying for certificates for export, import and transfer under article 6, paragraphs 2, 4, 6 and 9 shall submit to the Ministry of Economy and Energy documents specifying:

1. the parties to the transaction and their eligibility to engage in the respective activities;
2. the type and origin of the defence-related products;
3. the end-use and the end-user;
4. the delivery terms.

(2) The requirements for the type and contents of the documents under paragraph 1 shall be determined with the regulation on implementing this Act.

(3) The issue of the certificate under paragraph 1 shall take place within seven working days from the date of receiving the documents.

(4) (Amended and supplemented, SG No. 56/2012, effective 24.07.2012, SG No. 9/2014, effective 31.01.2014) The certificate under paragraph 1 shall be issued in five copies. The first copy shall be given to the applicant, the second one shall be sent to the National Security State Agency, the third one shall be sent to the Central Customs Office of the Customs Agency, the fourth one shall be sent to the Ministry of Interior, and the fifth one shall remain at the Ministry of Economy and Energy.

(5) The issued certificate shall be with a validity term of up to one year and may be extended once for the same period. It may be used only by the person to whom it was issued.

(6) (New, SG No. 93/2012, amended, SG No. 9/2014, effective 31.01.2014) A person to whom a certificate has been issued for import, export and transfer of defence related products shall be obliged to return to the Ministry of Economy and Energy the original of the certificate after the completion of the transaction or after the expiry of its validity term but not later than 14

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days after the expiry of the certificate term. The person to whom the certificate has been issued shall notify the Ministry of Economy and Energy in case the certificate will not be used. In this case the persons shall submit in writing to the Ministry of

Economy and Energy the reasons for not using the certificate and shall return the issued certificate.

Chapter Three

TERMS AND PROCEDURES FOR EXERCISING CONTROL OVER EXPORTS, TRANSFER, TRANSIT AND IMPORTS OF DUAL-USE ITEMS AND BROKERING ACTIVITIES WITH THEM

Section I

Scope of the Control over Exports, Transfer, Transit and Brokering Services With Dual-Use Items

Article 33. The provisions of this chapter concerning control over exports, transfers, transit and brokering services with dual-use items shall apply unless Regulation (EC) No. 428/2009 or other laws provide otherwise.

Article 34. (1) Authorisation for export of dual-use items shall be required for:

1. dual-use items specified in Annex I of Regulation (EC) No. 428/2009;
2. dual-use items beyond the ones specified in Annex I of Regulation (EC) No. 428/2009 when the conditions of article 4, paragraphs 1-5 of this Regulation exist;
3. dual-use items beyond the ones specified in Annex I of Regulation (EC) No. 428/2009 specified with an act of the Council of Ministers which represent a threat to public safety and human rights.

(2) Authorisation for transfer of dual-use items shall be required for dual-use items:

1. specified in Annex IV of Regulation (EC) No. 428/2009 from the territory of the Republic of Bulgaria to the territory of another member-state;
2. which have not been specified in Annex IV of Regulation (EC) No. 428/2009 when at the moment of transfer the conditions of article 22, paragraph 2 of this Regulation exist.

(3) Authorisation for transit of dual-use items specified in Annex IV of Regulation (EC) No. 428/2009 shall be required when the items are or may be intended for the uses specified in article 4, paragraph 1 of this Regulation.

(4) Authorisation for brokering services with dual-use items shall be required for dual-use items:

1. specified in Annex I of Regulation (EC) No. 428/2009 when the items are or may be intended for the uses specified in article 4, paragraphs 1 and 2 of this Regulation;
2. which are not included in Annex I of Regulation (EC) No. 428/2009 when the items are or may be intended for the uses specified in article 4, paragraph 1 of this Regulation.

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Article 35. The export of dual-use items shall include all regimes and activities specified in article 2, paragraph 2 of Regulation (EC) No. 428/2009.

Article 36. (1) The Interdepartmental Commission shall apply the measures specified in Regulation (EC) No. 428/2009 as assigned to a member-state.

(2) The Interdepartmental Commission shall:

1. issue authorisations for export and transfer of dual-use items within the Community from the territory of the Republic of Bulgaria and for brokering activities with them;
2. cooperate with the other bodies and institutions competent on the export control issues in the Republic of Bulgaria;
3. cooperate with the competent authorities of the Community and the member-states;
4. cooperate with the international institutions and the authorities of other states with responsibilities in the field of export control over dual-use items.
5. provide information in compliance with the obligations herein and in Regulation (EC) No. 428/2009.

Section II

Registration for Export and Transfer and for Brokering Activities of Dual-Use Items (Title amended, SG No. 93/2012)

Article 37. (1) (Amended, SG No. 9/2014, effective 31.01.2014) Exports and transfers of dual-use items may be performed by natural and legal persons after registration with the Ministry of Economy and Energy.

(2) (Amended, SG No. 9/2014, effective 31.01.2014) Brokering activities with dual-use items from Annex I of Regulation (EC) No. 428/2009 may be done by persons under article 2, paragraph 6 of Regulation (EC) No. 428/2009 after registering with the Ministry of Economy and Energy.

Article 38. (1) (Amended, SG No. 93/2012, amended and supplemented, SG No. 9/2014, effective 31.01.2014) In order to obtain a registration the persons under article 37 shall submit to the Ministry of Economy and Energy the documents under Article 14, paragraph 1, items 1, 2, 5 - 10 and 13, and 14 information from the person on the planned foreign trade activities with foreign partners with dual-use items for a period of at least one year. The information shall include specific categories and sub-categories of dual-use items and specific destinations.

(2) (Amended, SG No. 9/2014, effective 31.01.2014) The registration under paragraph 1 shall be done for a period of five years and any subsequent registration shall be done for the same term.

(3) (Amended, SG No. 9/2014, effective 31.01.2014) The Minister of Economy and Energy shall issue a registration certificate form within ten days after the date the application is received.

(4) In case omissions or irregularities are found in the submitted documents the applicant shall be notified in writing within seven working days of the date the documents are received with instructions to correct them. In this case the term under paragraph 1 shall be suspended as of the date the notification to the applicants is sent and shall be resumed on the date of receipt of the documents confirming the correction of the omissions and/or irregularities.

(5) The decision for registration or the refusal shall be communicated to the applicant within seven working days of the date the decision is made.

Article 39. (Amended, SG No. 9/2014, effective 31.01.2014) The Minister of Economy and Energy shall refuse to issue a registration certificate with an order when the application and the annexes thereto do not conform with the requirements of article 38, paragraph 1.

Article 40. (1) (Amended, SG No. 93/2012, SG No. 9/2014, effective 31.01.2014) In case the circumstances under which the registration certificate has been issued change the registered person shall be obliged to submit an application to the Ministry of Economy and Energy within 14 days of the occurrence of the change.

(2) (Amended, SG No. 93/2012) The documents certifying the change and a document for paid state fees under Article 71(1) shall be attached to the application under Paragraph 1.

(3) (New, SG No. 93/2012) In case of change in the circumstances which do not require an amendment of the issued certificate the applicant shall owe no fees under article 71, paragraph 1.

(4) (Renumbered from Paragraph 3, SG No. 93/2012, amended, SG No. 9/2014, effective 31.01.2014) The Minister of Economy and Energy shall issue an updated registration certificate within ten days after receiving the application with the attached documents and the change shall be recorded in the register.

Article 41. (Amended, SG No. 9/2014, effective 31.01.2014) The registration shall be deleted with an order of the Minister of Economy and Energy:

1. if circumstances occur which contradict the objectives and obligations specified in article 1, paragraph 2;
2. in case of failure to comply with or of a violation of the registration terms;
3. in case of failure to fulfil an obligation herein established with an act of a competent authority;
4. when the registered person has provided false information that served as a basis for obtaining the registration.

Article 42. (Amended, SG No. 9/2014, effective 31.01.2014) The registration shall be terminated with an order of the Minister of Economy and Energy:

1. on request by the registered person;
2. on termination of the operation of the registered person;
3. in case of demise of the registered natural person.

Article 43. (1) The orders under articles 39, 41 and 42 may be appealed against under the procedure of Administrative Procedure Code.

(2) The appeal shall not stop the implementation of the administrative act.

Article 44. (1) (Previous Article 44, SG No. 93/2012, amended, SG No. 9/2014, effective 31.01.2014) The Ministry of Economy and Energy shall create and maintain a public register of the persons registered for export and transfer and for

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brokering services with dual-use items.

(2) (New, SG No. 93/2012) The following shall be recorded in the register under paragraph 1:

1. the name of the natural or the legal person according to the commercial registration;
2. the unified identification code of the persons pursuant to article 37, paragraphs 1 and 2;
3. the number and date of the issued registration certificate and its validity term;
4. the date of the registration termination or deletion.

Section III

Export of Dual-Use Items

Article 45. (1) (Amended, SG No. 93/2012) The export authorisation may be an individual export authorisation, general export authorisations of the Union, a global export authorisation or a national general export authorisation pursuant to the definitions in Regulation (EC) No. 428/2009.

(2) (Amended, SG No. 93/2012) General authorisations of the Union pursuant to article 2, paragraph 9 of Regulation (EC) No. 428/2009 shall be applied for exports of dual-use items to the states specified in Annex IIa - IIe of Regulation (EC) No. 428/2009.

(3) An individual export authorisation, a global export authorisation and a national general export authorisation shall be issued by the Interdepartmental Commission.

(4) An individual authorisation shall be issued for export of dual-use items specified in Annex I of Regulation (EC) No. 428/2009 for a specific state through a single delivery or partial deliveries on the basis of contractual relations between the exporter and the foreign counterpart. The issued authorisation shall be with validity term of up to one year and may be extended once for a period of up to six months.

(5) (Amended, SG No. 93/2012) A global authorisation shall be issued for export of a certain type or category of dual-use items specified in Annex I of Regulation (EC) No. 428/2009 with the exception of items specified in Annex IIg of Regulation (EC) No. 428/2009 which shall be valid for one or more states. The issued authorisation shall be with validity term of up to two years and may be extended once for a period of up to one year.

(6) (Amended, SG No. 9/2014, effective 31.01.2014) A national general authorisation for export of dual-use items in the meaning of Regulation (EC) No. 428/2009 for exporters under article 37, paragraph 1 shall be issued by the Interdepartmental Commission and shall be published on the web page of the Ministry of Economy and Energy.

(7) When publishing a national general export authorisation the Interdepartmental Commission shall inform the exporters that the authorisation may not be used when the items are or may be intended in whole or in part for use in the cases under article 4, paragraphs 1-5 of Regulation (EC) No. 428/2009.

Article 46. The application for the issue of an authorisation under article 45, paragraphs 4 and 5 shall be submitted by the exporter to the Interdepartmental Commission on an application form. The exporter shall be liable for the truthfulness of the information provided.

Section IV

Brokering Activity with Dual-Use Items

Article 47. (1) An authorisation for brokering services with dual-use items shall be required when the broker has been informed by a control authority under article 67, paragraph 1 that the items are intended in whole or in part for any of the uses under article 4, paragraphs 1 and 2 of Regulation (EC) No. 428/2009 as well as in cases where the broker has grounds to believe that the dual-use items are or may be intended for the uses under article 4, paragraph 1 of this Regulation.

(2) To obtain an authorisation under paragraph 1 the broker shall submit to the Interdepartmental Commission an application form accompanied by the following documents:

1. the location of the dual-use items in the third state;
2. a description of the respective items and their quantities;
3. the third states participating in the transaction;
4. the third state of destination of the items;
5. the end-user of the items in the state under paragraph 4 and his precise location;
6. a statement of the truthfulness of the provided information.

(3) The requirements for the type and contents of the documents under paragraph 2 shall be determined with the regulation on implementing this Act.

(4) The issued authorisation shall be with a validity term of up to one year and it may be extended once for a period of up to six months.

Section V

Transit of Dual-Use Items

Article 48. The customs authorities may permit or prohibit the transit of dual-use items specified in Annex I of Regulation (EC) No. 428/2009 when they are or may be intended for the uses specified in article 4, paragraph 1 of this Regulation on the basis of a decision of the Interdepartmental Commission.

Article 49. (1) Until the adoption of a decision under article 48 by the Interdepartmental Commission the customs authorities shall suspend the transit of the dual-use items.

(2) Within 24 hours the customs authorities shall notify the Interdepartmental Commission in writing of the suspension of the transit.

(3) In case of a suspended transit when the conditions under article 4, paragraph 1 of Regulation (EC) No. 428/2009 exist the Interdepartmental Commission shall require the issue of a transit authorisation for dual-use items.

Article 50. A transit authorisation for dual-use items shall be issued by the Interdepartmental Commission for every specific case under a procedure determined in the regulation on implementing this Act. The issued authorisation shall be valid for up to one year and may be extended once for a period of up to six months.

Section VI

Transfer of Dual-Use Items

Article 51. (1) The transfer authorisation for dual-use items from the territory of the Republic of Bulgaria to the territory of another member-state may be an individual transfer authorisation, a global transfer authorisation or a general transfer authorisation.

(2) The authorisations under paragraph 1 shall be issued by the Interdepartmental Commission.

(3) An individual transfer authorisation shall be issued for the transfer within the Community of dual-use items specified in Annex IV of Regulation (EC) No. 428/2009 for a specific state through a single delivery or through partial deliveries on the basis of contractual relations between the sender and the foreign counterpart. The issued authorisation shall have a validity term of up to one year and may be extended once for a period of up to six months.

(4) A global transfer authorisation shall be issued for transfer within the Community of a specific type or category of dual-use items specified in part 1 of Annex IV of Regulation (EC) No. 428/2009. The issued authorisation shall have a validity term of up to two years and may be extended once for a period of up to one year.

(5) A general transfer authorisation shall be issued and published by the Interdepartmental Commission for the persons under article 37, paragraph 1 for transfer within the Community of dual-use items specified in Annex IV of Regulation (EC) No. 428/2009.

(6) No general transfer authorisation shall be issued for the items specified in part 2 of Annex IV of Regulation (EC) No. 428/2009.

(7) The Council of Ministers may determine dual-use items not specified in Annex IV of Regulation (EC) No. 428/2009 for which a transfer authorisation is required.

(8) The Interdepartmental Commission shall issue transfer authorisations for dual-use items that are not specified in Annex IV of Regulation (EC) No. 428/2009 when the conditions of article 22, paragraph 2 of this Regulation exist at the moment of transfer.

(9) In case of transfer of dual-use items included in category 5, part 2 of Annex I of Regulation (EC) No. 428/2009 and they are not specified in Annex IV of Regulation (EC) No. 428/2009 from the territory of the Republic of Bulgaria to the territory of another member-state the Interdepartmental Commission may require from the person conducting the transfer additional information on the items.

(10) (New, SG No. 93/2012, amended, SG No. 9/2014, effective 31.01.2014) In case of transfer of dual-use items included in category 0 of Annex I of Regulation (EC) No. 428/2009 to the territory of the Republic of Bulgaria from the territory of another member-state the person shall be obliged to declare the effected transfer before the Ministry of Economy and Energy under a procedure specified in the regulation on the implementation of this Act.

Section VII

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Import of Dual-Use Items

Article 52. (1) The import of dual-use items in the territory of the Republic Bulgaria from third states determined with a decree of the Council of Ministers shall be subject to registration.

(2) (Amended, SG No. 9/2014, effective 31.01.2014) Import of dual-use items under paragraph 1 may be done by natural and legal persons after registering the import with the Minister of Economy and Energy or with persons authorised by him/her under a procedure determined in the regulation on implementing this Act.

Article 53. (1) The import registration certificate under article 52 shall be issued for import of dual-use items from a third state through a single delivery or through partial deliveries on the basis of contractual relations between the importer and the foreign counterpart.

(2) (Amended, SG No. 9/2014, effective 31.01.2014) The person applying for an import certificate shall submit to the Ministry of Economy and Energy documents certifying:

1. the parties to the specific transaction and their eligibility to engage in the respective activities;
2. the type and origin of the dual-use items;
3. the end-use and the end-user;
4. the delivery terms.

(3) The requirements for the type and the content of the documents under paragraph 2 shall be determined in the regulation on implementing this Act.

(4) The registration of the transactions under article 52 shall be done within seven working days of the date of receiving the documents.

(5) (Amended and supplemented, SG No. 56/2012, effective 24.07.2012, amended, SG No. 9/2014, effective 31.01.2014) The certificate under paragraph 1 shall be issued in four copies. The first copy shall be given to the applicant, the second one shall be sent to the National Security State Agency, the third one shall be sent to the Central Customs Office of the Customs Agency, the fourth one shall be sent to the Ministry of Interior, and the fifth one shall remain at the Ministry of Economy and Energy.

(6) The issued certificate shall have a validity term of one year which may be extended once for up to six months. It may be used only by the person to whom it was issued.

(7) (Amended, SG No. 9/2014, effective 31.01.2014) A person to whom an import certificate was issued shall be obliged to return to the Ministry of Economy and Energy the original of the import certificate after the conclusion of the transaction or after the expiry of its validity term but not later than 14 days after the expiry of the term of the import certificate. The person to whom an import certificate was issued shall inform forthwith the Ministry of Economy and Energy in case the import certificate will not be used. In this case the person shall submit in writing to the Ministry of Economy and Energy the reasons for not using the import certificate and shall return the issued import certificate.

Chapter Four

PROVISION OF TECHNICAL ASSISTANCE RELATED TO MILITARY END-USE

Article 54. (1) Technical assistance related to military end-use pursuant to Council Joint Action (2000/401/CFSP) may be

provided by natural and legal persons registered under the Commerce Act. In the meaning herein the provision of technical assistance shall be deemed to be export.

(2) In order to provide technical assistance an export authorisation shall be issued by the Interdepartmental Commission with a validity term of up to one year which may be extended once for a period of up to six months.

(3) An export authorisation shall be required in the cases of providing technical assistance outside the Community and when the technical assistance envisages movement of people and is intended, or the person providing it knows, that it is intended for:

1. development, manufacture, use, maintenance, storage, detection, identification or proliferation of chemical, biological or nuclear products related to defence or other nuclear explosive devices, or for the development, manufacture, maintenance or storage of missiles capable to carry such defence related products, or

2. military end-use different from the one under item 1 in a state that is the subject of an arms embargo introduced with a common position or joint action adopted by the Council of the European Union or with a resolution of the Organisation for Security and Cooperation in Europe or of an arms embargo imposed by a binding resolution of the United Nations Security Council.

(4) No export authorisation shall be required for provision of technical assistance when it is provided:

1. (amended, SG No. 93/2012) in a state included in the list in part 2 of Annex IIa of Regulation (EC) No. 428/2009;

2. in the form of publicly available information or as part of a basic scholarly research as these terms are defined in the international export control regimes, organisations or agreements.

3. orally and is not related to dual-use items controlled under one or more international regimes, organisations or agreements.

(5) Export authorisation for provision of technical assistance shall be issued by the Interdepartmental Commission under the procedure specified for issuing export authorisations of dual-use items and technologies.

(6) Refusal, postponement, amendment and extension of export authorisations for the provision of technical assistance shall be done under the procedure of Chapter Five.

(7) The export authorisations for the provision of technical assistance shall not be intended for customs purposes.

(8) The person using an export authorisation for the provision of technical assistance shall be obliged to inform the Interdepartmental Commission within five days after completing the export.

Chapter Five

ISSUING, REFUSING, POSTPONING, AMENDING, REVOKING AND EXTENDING AUTHORISATIONS

Article 55. (1) The persons applying for the issue of an individual or a global authorisation shall submit to the Interdepartmental Commission an application form and documents certifying:

1. the parties to the specific transaction and their eligibility to engage in the respective activities;

2. the type and origin of the defence related products or of the dual-use items;

3. the transaction or the participation in an exhibition;

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4. the end-use and the end-users;

5. the delivery terms.

(2) The requirements for the type and the content of the documents under paragraph 1 shall be determined in the regulation on implementing this Act.

Article 56. (1) (Amended and supplemented, SG No. 56/2012, effective 24.07.2012) The authorization under article 28, paragraphs 2, 3 and 4, articles 29, 30, article 31, paragraphs 2 and 4, article 45, paragraphs 4 and 5, article 47, paragraph 1, article 50, article 51, paragraphs 3 and 4 and article 54, paragraph 2 shall be issued in five copies. The first copy shall be given to the applicant, the second one shall be sent to the National Security State Agency, the third one shall be sent to the Central Customs Office of the Customs Agency, the fourth one shall be sent to the Ministry of Interior, and the fifth one shall remain at the Interdepartmental Commission.

(2) The authorization may be used only by the person to whom it is issued.

Article 57. (1) The Interdepartmental Commission may postpone the adoption of a decision on an application for issuing an individual or a global authorisation:

1. when some of the documents provided for in the regulation on implementing this Act are missing or if they do not contain the required information;
2. if it is necessary to conduct an inspection under article 64, paragraph 2;
3. if additional information related to the transaction is required.

(2) The Interdepartmental Commission shall notify the applicant of the postponement and of the reasons for the postponement within the time-frame under article 64, paragraph 7.

(3) The postponement under paragraph 1 shall last until the grounds for it are no longer valid but not more than 60 days.

Article 58. (1) The Interdepartmental Commission shall refuse the issue of an authorisation with a substantiated decision when:

1. there are circumstances contradicting the objectives and obligations specified in article 1, paragraph 2 or in article 12 of Regulation (EC) No. 428/2009;
2. the application and the documents attached thereto do not conform with the requirements provided for in the regulation;
3. there is incompatibility between the stated and the actual circumstances of the transaction;
4. the applicant has submitted false documents or untruthful information;
5. the end-use and the end-user stated in the application for the issue of authorisation cannot guarantee that the dual-use items will not be used for the development, manufacture, use, maintenance, storage, detection, identification or proliferation of chemical, biological or nuclear weapons or other nuclear explosive devices or for the development, manufacture, maintenance or storage of missiles capable or carrying such weapons;
6. there are restrictions or prohibitions ensuing from international agreements or from the Republic of Bulgaria's membership in international organisations;
7. the activities related to the authorisation affect substantive interests of the Republic of Bulgaria in the security field or there are considerations relating to the protection of public order;
8. the terms provided for in other normative acts have not been complied with.

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(2) In case of refusal the person shall not be eligible to apply for the issue of a new authorisation for a period of three months after the date of the refusal of the specific transaction.

(3) An application for which a decision of refusal pursuant to the cases under paragraph 1 items 2, 3, 5 - 8 has been adopted may be reconsidered before the expiry of the term under paragraph 2 on request by the applicant in case the circumstances thereof no longer exist.

Article 59. If an authorised transaction is not completed within the period of the issued authorization within 30 days before the expiry of the period the applicant may request an extension of the period with a substantiated application containing information of the uncompleted part of the transaction and a statement that no change in the terms under which the authorization was issued has occurred.

Article 60. (1) An issued authorization shall be amended and/or supplemented with a substantiated decision of the Interdepartmental Commission in case of:

1. amendment of the normative requirements related to the authorisation;
2. changes in the circumstances under which the authorisation was issued;
3. considerations related to the protection of substantive interests of the Republic of Bulgaria in the security field or there are considerations relating to the protection of public order or public safety or in compliance of existing international obligations.

(2) In case the issued authorisation is amended and/or supplemented on the initiative of the applicant he/she shall notify the Interdepartmental Commission within 14 days of the occurrence of the change of the circumstances under which the authorisation was issued.

(3) The Interdepartmental Commission shall issue a decision on the application for amendment and/or supplementing the authorisation within 30 days.

Article 61. (1) The Interdepartmental Commission shall terminate with a substantiated decision the validity of an issued individual or global authorisation for a period of 60 days in case:

1. circumstances emerge which contradict the objectives and obligations specified in article 1, paragraph 2 or in Regulation (EC) No. 428/2009;
2. of a change in the normative requirements related to the authorisation;
3. of changes in the circumstances under which the authorisation was issued;
4. of considerations related to the protection of considerable security interests of the Republic of Bulgaria, to protection of public order or public safety or to the fulfilment of international obligations.

(2) In case an authorisation under paragraph 1 is terminated the Interdepartmental Commission shall inform the person to whom it was issued to stop the activities under the authorisation and to return the issued authorisation to the Interdepartmental Commission.

(3) A terminated authorisation may be restored before the expiry of the term under paragraph 1 in case the circumstances that served as the basis for the termination no longer exist.

Bulgaria, **Defence-Related Products and Dual-Use Items and Technologies Export Control Act**. Source: www.mi.government.bg. Accessed on 8/11/2023.

Article 62. (1) The Interdepartmental Commission shall revoke or restrict with a substantiated decision the scope of a published national general authorisation in relation to the defence-related products or dual-use items included in it or in relation to the recipients included in it in case of:

1. the emergence of circumstances contradicting the objectives and obligations specified in article 1, paragraph 2;
2. the introduction of restrictions or prohibitions ensuing from international agreements or the membership of the Republic of Bulgaria in international organisations;
3. the activities in the authorisation affect considerable security interests of the Republic of Bulgaria, or considerations related to protection of public order or public safety.
4. there is failure to comply or a risk of non-compliance with terms to which the issued authorisation is bound.

(2) The Interdepartmental Commission shall inform the member-states and the European Commission of the measures imposed under paragraph 1 as well as for the grounds for their imposition.

(3) (New, SG No. 93/2012) The Interdepartmental Board may proscribe with a substantiated resolution the use of a general authorization of the Union pursuant to article 9, paragraph 1 of Regulation (EC) No. 428/2009 by persons under article 37, paragraph 1, items 1-4 and/or where there is a risk of incompliance with the provisions herein.

(4) (Renumbered from Paragraph 3, amended, SG No. 93/2012) The restrictions of scope under paragraphs 1 and 3 shall be rescinded in case the grounds for their imposition are no longer valid.

Article 63. (1) The Interdepartmental Commission shall withdraw with a substantiated decision an issued individual or global authorisation when:

1. circumstances emerge which contradict the objectives and obligations specified in article 1, paragraph 2;
2. the performed activity does not conform with the terms specified in the issued authorisation;
3. the applicant has failed to fulfil an obligation provided for herein and this failure has been established with an act of a competent state authority;
4. the applicant has submitted false documents or untruthful data which served as the grounds for issuing the authorisation;
5. restrictions or prohibitions are introduced ensuing from international agreements or from the membership or the Republic of Bulgaria in international organisations;
6. the activities under the authorisation affect substantive interests of the Republic of Bulgaria in the security field or there are considerations related to the protection of public order;
7. the person to whom authorization has been issued has been deprived of his/her licence authorising him/her to perform export and import of defence-related products, or his/her registration certificate for transfer and brokerage activities with defence-related products, or the registration for export, transfer and brokerage activities with dual-use items has been deleted or terminated.

(2) When the authorisation under paragraph 1 has been withdrawn the person shall not be eligible to apply for a new authorisation for a period of three months after the date of the withdrawal.

(3) An authorisation withdrawn under the procedure of paragraph 1, items 1, 3, 5, 6 and 7 may be restored before the expiry of the term under paragraph 2 on request by the applicant in case the circumstances for the withdrawal are no longer valid.

Article 64. (1) The Interdepartmental Commission shall rule on the applications for the issue of authorisations:

1. under article 28, paragraph 2, 3 and 4, article 29, article 31, paragraph 2 and 4, article 45, paragraph 4 and 5, article 47, paragraph 1, article 50, article 51, paragraph 3 and 4 and article 54, paragraph 2 - within 30 days after the date of their

Bulgaria, **Defence-Related Products and Dual-Use Items and Technologies Export Control Act**. Source: www.mi.government.bg. Accessed on 8/11/2023.

receipt;

2. under article 30 - within seven working days after the date of their receipt;

(2) In case of need the Interdepartmental Commission may require:

1. a verification of the documents provided including through diplomatic channels;
2. additional information related to the transaction;
3. an opinion from other state bodies as well as to employ experts who would give opinions on issues requiring specialised knowledge.

(3) When making a decision on the issue of individual, global or general authorisation for the transfer of components of defence-related products the Interdepartmental Commission shall take into consideration:

1. the nature of the components in relation to the products in which they are to be included and in relation to any possible end-use of the finished products which may be cause of concern;
2. the significance of the components in relation to the products in which they are to be included.

(4) In case of transfer of components for defence-related products which are no cause of concern and when the recipient produces documents, certifying that the components that are the object of transfer are integrated or are subject to integration into his own products and may not be transferred again at a later stage or be exported as such except for the purposes of maintenance or repairs, the Interdepartmental Commission shall not impose restrictions for the subsequent export of these components.

(5) The Interdepartmental Commission may determine additional conditions and procedures for conducting exports of transfers of defence-related products when their end-use may be cause of concern.

(6) The Interdepartmental Commission shall adopt decisions with a two-thirds majority of all Commission members in the case when representatives of all ministries and departments represented in the Commission are in attendance. The Interdepartmental Commission shall adopt decisions with consensus when representatives of all ministries and departments represented in the Commission are not in attendance. As an exception a decision may be adopted in absentia if the protocol is signed with the same opinion by two-thirds of all members of the Interdepartmental Commission in the cases when they represent all ministries and departments represented in the Commission. In case the protocol on the adoption of a decision in absentia is not signed by a representative of any ministry or department represented in the Commission a decision shall be adopted if the opinion of all remaining members is in favour.

(7) The decision of the Interdepartmental Commission shall be communicated to the applicant within seven working days after its adoption.

(8) (Supplemented, SG No. 56/2012, effective 24.07.2012) The Interdepartmental Commission shall inform the Ministry of Interior, the National Security State Agency and the Central Customs Office of the Customs Agency within five working days of the authorisations that have been issued, extended, amended and withdrawn.

(9) (Amended, SG No. 93/2012) The decisions of the Interdepartmental Commission under articles 58, 61,62 and 63 may be appealed against under the procedure of the Administrative Procedure Code.

(10) The appeal under paragraph 9 shall not stop the implementation of the administrative act.

Chapter Six

OBLIGATIONS OF THE PERSONS ENGAGED IN ACTIVITIES WITH DEFENCE-RELATED PRODUCTS AND DUAL-USE ITEMS

Bulgaria, **Defence-Related Products and Dual-Use Items and Technologies Export Control Act**. Source: www.mi.government.bg. Accessed on 8/11/2023.

Article 65. The persons engaged in activities with defence-related products and dual-use items shall be obliged:

Bulgaria, **Defence-Related Products and Dual-Use Items and Technologies Export Control Act**. Source: www.mi.government.bg. Accessed on 8/11/2023.

1. to introduce internal rules for the organisation of and control over the activities carried out by them under a procedure specified in the regulation on implementing this Act.
2. to keep a separate register for the transactions which they conclude under this Act and to keep for a term of at least ten years the trade, transport and other documents related to the performance of the respective activity, containing information on:
 - a) the description of the defence-related products or the dual-use items, the respective classification pursuant to the list in article 2 and identification such as serial number, certificate, specification;
 - b) their quantity and value;
 - c) the date the transactions are implemented;
 - d) the name and address of the exporter, supplier and importer or the recipient as well as of their agents, responsible for the implementation of the obligations under the transaction;
 - e) the end-use and the end-user of the defence-related products or of the dual-use items;
 - f) documents confirming that the information related to the restrictions for export, including ones by which a transfer authorisation is bound, has been communicated to the importer of the recipient of the defence-related products or dual-use items;
3. to provide information and data under paragraph 2 on request by the control bodies under article 67, paragraph 1 and to assist them when they carry out inspections;
4. to provide to the Interdepartmental Commission the information and the documents required herein and by the regulation on implementing this Act, related to the performance of the activities authorised by it, within the specified time-frames;
5. to conform with the terms under which this activity is authorised;
6. to notify forthwith of any change in the circumstances under item 2;
7. to mark on the documents under paragraph 2 submitted to the customs authorities the number of the issued authorisation or certificate;
8. to notify the Interdepartmental Commission when they are in possession of information that the dual-use items that are the object of a brokering transaction are intended entirely or in part for any of the uses under article 4, paragraph 1 of Regulation (EC) No. 428/2009.

Article 66. (1) Should the Interdepartmental Commission require this the exporters of defence-related products or dual-use items shall be obliged to include in the foreign trade agreement a clause, or in the invoice on the sale a text obliging the importer, recipient and/or end-user not to transfer or re-export defence-related products or dual-use items to other natural or legal persons without the written authorisation of:

1. the Interdepartmental Commission or the national competent authority of the state - in case of subsequent re-export, in case of export or transfer to states that are not participants in Wassenaar Arrangement;
 2. the Interdepartmental Commission in case of export to states that are not participants in Wassenaar Arrangement.
- (2) The suppliers of defence-related products shall be obliged to include in the foreign trade agreement a clause, or in the invoice on the sale a text informing the recipients of the terms and procedures of the transfer authorisation and of restrictions imposed relating to the end-use or the export of defence-related products.
- (3) In order to certify the end-use and the end-user the persons exporting defence-related products or dual-use items to states not included in the Annex shall submit to the Interdepartmental Commission a certificate for end-use and end-user and/or an

Bulgaria, **Defence-Related Products and Dual-Use Items and Technologies Export Control Act**. Source: www.mi.government.bg. Accessed on 8/11/2023.

international certificate for import issued by the competent authorities of the end-user state.

(4) In order to certify the end-use and the end-user the persons exporting defence-related products or dual-use items to states

included in the Annex, or transfer with an individual or a global authorisation for transfer of defence-related products or of dual-use items shall submit to the Interdepartmental Commission a certificate for end-use and end-user and/or a statement for end-use and end-user and/or an international certificate for import issued by the competent authorities of the end-user state.

(5) The type and contents of the documents under paragraphs 3 and 4 shall be determined with the regulation on implementing this Act.

(6) In case of a request by the Interdepartmental Commission the exporter shall be obliged to include in the contract a clause allowing a physical inspection by persons authorised by it of the delivery in the end-user state.;

(7) In case of a request by the Interdepartmental Commission exporters of defence-related products or of dual-use items shall be obliged to produce a certificate that the delivery is completed or an equivalent document issued or endorsed by a competent authority of the end-user state confirming the completion of the delivery.

(8) On submitting an application for export of defence-related products or of dual-use items received as a result of transfer the applicants shall be obliged to notify the Interdepartmental Commission of the existence of export restrictions by which the transfer is bound and which are imposed by the state that issued the transfer authorisation as well as of the fact that they have complied with the terms of these restrictions, including that they have obtained the consent of the supplier's state.

(9) The suppliers of defence-related products shall be obliged to inform in writing the Interdepartmental Commission ten days before using for the first time a national general authorisation for transfer published by the Commission.

(10) The carriers under article 8, paragraph 1 shall be obliged, on request by the control bodies under article 67, paragraph 1, to provide a copy of the transfer authorisation or the grounds for not issuing one.

(11) The exporters of defence-related products and of dual-use items shall be obliged to produce the export authorisation at the customs office in which the customs formalities on the export are done.

(12) A person to whom an authorisations has been issued shall be obliged to return to the Interdepartmental Commission the original of the authorisation after the completion of the transaction or after the expiry of its validity term but not later than 14 days after the expiry of the term of the authorisation. The persons to whom the authorisation was issued shall notify the Interdepartmental Commission in case the authorisation will not be used. In this case the persons shall return the issued authorisation to the Interdepartmental Commission before the expiry of the validity term.

Chapter Seven

CONTROL OVER THE COMPLIANCE WITH THE REGIME FOR THE ACTIVITIES WITH DEFENCE-RELATED PRODUCTS AND WITH DUAL-USE ITEMS

Article 67. (1) (Amended, SG No. 9/2014, effective 31.01.2014) The control over the implementation of this Act shall be exercised by the Interdepartmental Board, the Interdepartmental Commission, the Minister of Economy and Energy, the Minister of the Interior, the Chairperson of the National Security State Agency and the Director of the Customs Agency or by officials authorised by them.

(2) The control shall envisage inspections before and after the issuing of a licence, recipient certificate, authorisation or certificate.

(3) When exercising control the authorities under paragraph 1 may:

1. require from the persons engaged in activities with defence-related products and/or dual-use items the information and the data needed for exercising control;

Bulgaria, **Defence-Related Products and Dual-Use Items and Technologies Export Control Act**. Source: www.mi.government.bg. Accessed on 8/11/2023.

2. request the opinion of other state bodies in case of need;

Bulgaria, **Defence-Related Products and Dual-Use Items and Technologies Export Control Act**. Source: www.mi.government.bg. Accessed on 8/11/2023.

3. visit the border control areas and the storage places for items under customs supervision on the territory of the Republic of Bulgaria under the terms and procedures of applicable law;
4. enter the premises of persons involved in activities with defence-related products and /or dual-use items under the terms and procedures of applicable law;
5. address requests to the competent authorities of other states for information required for exercising control;
6. provide information related to exercising control in response to requests from other states and international organisations in compliance with international commitments undertaken by the Republic of Bulgaria;
7. establish direct cooperation and exchange of information with the competent national authorities of member-states.

(4) The Interdepartmental Board shall carry out once a year an inspection of the compliance of the certified recipient pursuant to the criteria under article 13, paragraph 5 on the actuality of the information and data provided by the certified recipient according to article 15, items 3-6 as well as of the compliance with the certificate's terms according to article 13, paragraph 6.

(5) The control bodies shall be obliged not to make public the official corporate and commercial secrets of the inspected persons unless this is required pursuant to international obligations of the Republic of Bulgaria.

(6) Representatives of a foreign state may participate in the exercise of control in conformity with the international obligations undertaken by the Republic of Bulgaria on the basis of international agreements or participation in international organisations.

Article 68. (1) The customs authorities may not allow an export regime or after allowing the regime if there is need may prevent defence-related products and/or dual-use items under Annex I of Regulation (EC) 428/2009 from leaving the customs territory of the Community through the borders of the Republic of Bulgaria, for a period of 30 days in cases when:

1. information related to the transaction has not been taken into consideration when issuing the authorisation;
2. the circumstances have changed substantially after the authorisation was issued; or
3. this has been requested by a control body under article 67, paragraph 1 or by a competent authority of a member-state.

(2) The customs authorities shall notify forthwith the Interdepartmental Commission of the termination of the export or of the prevention of leaving the customs territory of the Community with a proposal to hold consultations. Consultations related to dual-use items shall be held pursuant to article 16. paragraph 4 of Regulation (EC) 428/2009.

Article 69. (1) The Director of the Customs Agency may designate the customs offices where customs formalities for activities with defence-related products and with dual-use items under this Act are performed.

(2) The Customs Agency shall provide information to the European Commission of the customs offices designated under paragraph 1.

Article 70. (1) The Interdepartmental Board and the Interdepartmental Commission shall submit to the Council of Ministers reports on the implementation of this Act in the field of their competencies for the past calendar year by 30 June of the following calendar year.

(2) The Council of Ministers shall submit the reports under paragraph 1 to the National Assembly.

(3) (Amended, SG No. 9/2014, effective 31.01.2014) The reports under paragraph 1 shall be published in the established

Bulgaria, **Defence-Related Products and Dual-Use Items and Technologies Export Control Act**. Source: www.mi.government.bg. Accessed on 8/11/2023.

format of the consolidated report of the European Union on the implementation of the Common Position 2008/944/CFSP of the Council of 8 December 2008 defining common rules governing control of exports of military technology and equipment (OJ L 335/99 of 13 December 2008) published annually in the Official Journal of the European Union.

Article 71. (1) (Supplemented, SG No. 9/2014, effective 1.01.2014) Fees shall be charged for issuing licenses, recipient certificates, registrations, authorisations and registration certificates, for extending the validity terms of issued authorisations or registration certificates, for amending or supplementing issued licences, recipient certificates, for performed registrations and for issuing authorisations or registration certificates in amounts according to a tariff endorsed by the Council of Ministers.

(2) The revenues from the fees herein shall be administered by the state bodies under which the Interdepartmental Board and the Interdepartmental Commission are established and function.

(3) The revenues from the fees shall be spent for ensuring the activity under paragraph 1 and for exercising control over the compliance with the issued licences, certificates and authorisations.

Chapter Eight

ADMINISTRATIVE AND PENAL PROVISIONS

Article 72. The following sanctions shall be imposed on persons who engage in export, import, transfer, brokering services, transportation and/or transit of defence-related products and of dual-use items without the respective licence, registration or authorisation:

1. a fine from BGN 1 000 to BGN 50 000 for natural persons as well as for officials of commercial companies in case the deed is not a crime;
2. a property sanction amounting from BGN 25 000 to BGN 250 000 for legal persons and sole traders;
3. a fine or a property sanction amounting from BGN 50 000 to BGN 500 000 for a repeated violation.

Article 73. (Supplemented, SG No. 93/2012) The following sanctions shall be imposed on persons who engage in activities in violation of the scope and terms of an issued authorisation or certificate, who do not conform with the export restrictions determined on receiving the defence-related products or the dual-use items as a result of transfer or import, or who fail to produce documents, data, information and evidence, or produce inaccurate and/or incomplete ones, or who prevent or refuse access to an official exercising control under this Act:

1. a fine from BGN 1 000 to BGN 50 000 for natural persons as well as for officials of commercial companies in case the deed is not a crime;
2. a property sanction amounting from BGN 5 000 to BGN 50 000 for legal persons and sole traders;
3. a fine or a property sanction amounting from BGN 10 000 to BGN 100 000 for a repeated violation.

Article 74. Persons who fail to comply with their obligations under article 65 and 66 shall be sanctioned with:

1. a fine from BGN 2 000 to BGN 20 000 for natural persons as well as for officials of commercial companies in case the deed is not a crime;
2. a property sanction amounting from BGN 10 000 to BGN 100 000 for legal persons and sole traders;

3. a fine or a property sanction amounting from BGN 20 000 to BGN 200 000 for a repeated violation.

Article 75. (1) The acts for establishing the violations shall be drawn up by the officials appointed by the respective control body under article 67, paragraph 1.

(2) The penal ordinances shall be issued by the control body under paragraph 1 which has established the violation or by an official authorised by it.

(3) The establishment of the violations, the issuing, appealing and implementation of the penal ordinances shall be done under the Administrative Violations and Sanctions Act.

Article 76. The revenues from fines and property sanctions imposed under this Act shall be charged to the budget of the control body under article 67, paragraph 1 which has issued the penal ordinance.

ADDITIONAL PROVISIONS

§ 1. In exceptional cases when a risk for the country's national security may arise, of affecting its foreign policy interests or the implementation of international obligations undertaken by it the Council of Ministers may prohibit the import, export, transfer, re-export or transit of defence-related products and of dual-use items regardless of the issued licences and authorisations.

§ 2. In the meaning herein:

1. "Defence-related product" shall be a product included in the General List of Weapons of the European Union.

2. "Dual-use items" shall be a term in the meaning of article 2, paragraph 1 of Regulation (EC) No. 428/2009.

3. "Transfer" shall be any delivery or movement of defence-related products and dual-use items or technical assistance from or to the territory of the Republic of Bulgaria, without leaving the customs territory of the Community, from a supplier to a recipient in another member-state.

4. "Supplier" shall be a natural or legal person registered as a trader under the national law of a member-state which is responsible for the transfer.

5. "Recipient" shall be a natural or legal person registered as a trader under the national law of a member-state which is responsible for receiving the transfer.

6. "Export" shall be:

a) export regime in the meaning of article 161 of Regulation (EEC) No. 2913/92 (Community Customs Code);

b) re-export in the meaning of article 182 of this Regulation with the exception of products in transit, as well as

c) transmission of software or technologies by electronic means including by telefax, telephone, electronic mail or other

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electronic means to locations outside the European Community, the provision in electronic format of such software and technologies to legal and natural persons and partnerships outside the Community included; export relates also to the oral transmission of technologies when a description of the technologies is made over the phone.

Bulgaria, **Defence-Related Products and Dual-Use Items and Technologies Export Control Act**. Source: www.mi.government.bg. Accessed on 8/11/2023.

7. "Transit" shall be transportation of non-community defence-related products which enter or cross the customs territory of the Community with a destination outside the Community.

8. "Transition" shall be the transportation of defence-related products or of dual-use items through one or more member-states different from the member-state of origin and from the receiving member-state.

9. "Import" shall be any introduction in the customs territory of the Republic of Bulgaria of defence-related products and of dual-use items which have the status non-community products, including the receipt of an admissible customs destination after their introduction.

10. "Non-community defence-related products" shall be defence-related products falling within the category of non-community goods in the meaning of article 4, item 8 of the Community Customs Code.

11. "Brokering services" shall be:

a) negotiating or arranging transactions for purchasing, selling or supplying defence-related products from a third state to another third state; or

b) (amended, SG No. 9/2014, effective 31.01.2014) selling or purchasing defence-related products located in third states and are intended for delivery to another third state.

In the meaning herein the provision of only auxiliary services shall be excluded from this definition. Auxiliary services shall include transport, financial services, insurance or reinsurance services or general advertising or promotions.

12. "Brokerage activity" shall be an activity which includes the provision of brokering services.

13. "Broker" shall be a natural or legal person or partnership residing in or established on the territory of the Republic of Bulgaria which performs brokering services from the Community to the territory of another state.

14. "Technology" shall be technical information required for the development, manufacture or use of products. This information has the form of technical data or technical assistance. The technical data may be in the form of designs, blueprints, diagrams, models, formulae, tables, engineering drawings and specifications, written commands or commands saved on another carrier.

15. "Technical assistance" shall be the term under article 1 (a), (b) of Council Joint Action 2000/401/CFSP.

16. "Military end-use" shall be the term under article 4, paragraph 2 (a), (b), (c) of Regulation (EC) No. 428/2009.

17. "Member-state" shall be a state which is a member of the European Union.

18. "Third state" shall be a state which is not a member of the European Union.

19. "International export control regimes, organisations or agreements" shall be the term under article 1(c) of Council Joint Action 2000/401/CFSP.

20. "Reliability" of the persons to perform the activities herein shall exist when:

a) they have cleared with the security authorities a list of the natural persons who are directly involved in activities with defence-related products under this Act;

b) a manager, member of a management or control body or a natural person under item "a" is not convicted with an effective act of a court for a crime of a general nature;

c) there is no information that a manager, member of a management or control body or a natural person directly involved in the activities herein represents a threat to national security, the economic and foreign policy interests of the Republic of Bulgaria, to strengthening international peace and security and the implementation of the Republic of Bulgaria's international commitments.

21. "Economic soundness" of the trader to perform the activities herein shall exist when:

a) he has not been declared bankrupt or is not the subject of ongoing proceedings for declaring bankruptcy;

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b) there is no entry of termination operations and declaration in liquidation;

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c) has no liquid and executable public liabilities or they are rescheduled, postponed or secured;

d) has no liquid and executable public liabilities to natural or legal persons when the liability has been recognised before the enforcement execution authority.

22. "Repeated" shall be a violation which is perpetrated within one year after the entry into force of a penal ordinance imposing a sanction for the same violation.

23. "Systematic violation" shall be the perpetration of three or more violations of the same kind in the course of a two-year period for which administrative sanctions have been imposed on the persons with effective penal ordinances.

§ 3. This Act shall introduce the provisions of Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying the terms and conditions of transfers of defence-related products within the Community (OJ, L 146/1 of 10 June 2009).

§ 4. The provisions herein relating to defence-related products applied to the European Union member-states shall apply also to the states - parties to the Agreement on the European Economic Area.

§ 5. (Amended, SG No. 9/2014, effective 31.01.2014) The forms of the documents herein shall be approved with an order of the Minister of Economy and Energy.

TRANSITIONAL AND FINAL PROVISIONS

§ 6. The Arms and Dual-Use Items and Technologies Export Control Act (Promulgated, State Gazette No. 11/2007, amended, SG No. 109/2007, No. 36/2008, No. 82/2009, and No. 13/2010 shall be revoked.

§ 7. (1) The licences issued for export, import and transfer of weapons or for transporting weapons shall remain valid until the expiry of the term for which they were issued.

(2) The issued registration certificates for brokerage with weapons and the certificates for registration of brokerage activities with dual-use items shall remain valid until the expiry of the term for which they were issued.

(3) The issued registration certificates for export and transfer of dual-use items and technologies shall remain valid until the expiry of the term for which they were issued.

(4) The issued authorisations for participation in exhibitions, export, import, transit and transfer of weapons and for brokerage activities with weapons and for export, transfer and transit of dual-use items and technologies and the import certificates for dual-use items shall remain valid until the expiry of the term for which they were issued.

Bulgaria, **Defence-Related Products and Dual-Use Items and Technologies Export Control Act**. Source: www.mi.government.bg. Accessed on 8/11/2023.

§ 8. The pending proceedings for issuing licences, registration certificates, authorisations, import certificates or for extending the

Bulgaria, **Defence-Related Products and Dual-Use Items and Technologies Export Control Act**. Source: www.mi.government.bg. Accessed on 8/11/2023.

validity of issued authorisations or import certificates before the entry of this Act into force shall be completed under the existing procedure.

§ 9. (In force as of 29.03.2011 - SG, No. 26/2011) The Council of Ministers shall adopt a regulation on implementing this Act within three months of its promulgation in the State Gazette.

§ 10. In article 15, paragraph 4, item 13, article 57, item 6, article 124, item 4 and article 125, paragraph 2 of the Nuclear Energy Safe Use Act (promulgated in the SG, No. 63/2002; amend. No. 120/2002, No. 70/2004, No. 76, 88 and 105/2005, No. 30/2006, No. 11 and 109/2007, No. 36 and 67/2008, No. 42 and 74/2009 and No. 80, 87, 88 and 97/ 2010) the words "Arms and Dual-Use Items and Technologies Export Control Act" shall be replaced by "Defence-Related Products and Dual Use Items and Technologies Export Control Act".

§ 11. In article 6, paragraph 6, article 10, paragraph 1 and article 11 of the Chemical Weapons Prohibition and Toxic Chemical Substances and their Precursors Control Act (promulgated in the SG, No. 8/2000 г.; Amend. No.. 75/2002 г., No. 11/2007 г. and No. 82/2009 г.) the words "Arms and Dual-Use Items and Technologies Export Control Act" shall be replaced by "Defence-Related Products and Dual Use Items and Technologies Export Control Act".

§ 12. In article 111, paragraph 2, article 112, paragraph 3, article 114, and article 121, paragraph 4 of the Weapons, Ammunition, Explosives and Pyrotechnical Products Act (promulgated in the SG No. 73/2010; suppl. No. 88/2010 г.) the words "Arms and Dual-Use Items and Technologies Export Control Act" shall be replaced by "Defence-Related Products and Dual Use Items and Technologies Export Control Act".

§ 13. This Act shall enter into force on 30 June 2012 with the exception of § 9, which shall enter into force on the date of the promulgation of this Act in the State Gazette.

This Act was adopted by the 41st National Assembly on 16 Mach 2011 and has been stamped with the official seal of the National Assembly.

Act on Amending and Supplementing the Defence-Related Products and Dual-Use Items and Technologies Export Control Act

(SG No. 9/2014, effective 31.01.2014)

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§ 13. In the remaining texts of the Act the words "Ministry of Economy, Energy and Tourism", "the Minister of Economy, Energy and Tourism" and "Minister of Economy, Energy and Tourism" shall be replaced by "Ministry of Economy and Energy", "the Minister of Economy and Energy" and "Minister of Economy and Energy" respectively.

TRANSITIONAL AND FINAL PROVISIONS

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§ 14. Pending proceedings for issuing licenses, recipient certificates and registration certificates before the entry into force of this Act shall be concluded under the current procedures.

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Annex
to article 28, paragraph 3

- Australia
- Canada
- Japan
- New Zealand
- Switzerland
- the United States of America