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## 26.7.1996/562

### Act on export control of dual-use products

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Pursuant to the Parliament's decision, the following provisions are made:

#### Section 1 (11.3.2011/226)

##### Scope of application

Restrictions on the export, transfer, transit and transfer of dual-use products ( export control ) are subject to this law, unless otherwise provided by law or by Council Regulation (EC) No. 428/2009 (redrafted) on the establishment of a community control system for the export, transfer, transfer and transit of dual-use products, hereinafter *the Council regulation* , or on the approved joint action of the Council on the control of technical assistance related to certain military end-uses (2000/401/CFSP) hereinafter *the joint action of the Council* , etc.

#### Section 2 (27.10.2000/891)

##### Dual use product

In this law, a dual-use product means a product, technology, service and other commodity which, in addition to its normal civilian use or application, can be used for the development or manufacture of weapons of mass destruction or missile systems intended to target them, or which can be used to promote general military capability.

#### Section 3 (11.3.2011/226)

##### Licensing

The export of a dual-use product subject to control pursuant to a Council regulation, a joint action of the Council or this law is only permitted on the basis of a general permit of the European Union or an individual, collective or general permit issued by the Ministry of Foreign Affairs.

Brokerage services for dual-use products listed in Annex I of the Council Regulation are subject to a license if the broker has received notification from the Ministry of Foreign Affairs that the products to be brokered are or may be fully or partially intended for one of the uses referred to in Article 4, paragraph 1 or 2 of the Council Regulation. If the broker knows or the broker has reason to suspect that the product included in Annex I of the Council Regulation is intended in whole or in part for one of the uses referred to in Article 4, paragraph 1 of the Council Regulation, the broker must inform the Ministry of Foreign Affairs, which decides on the need for a license.

The transit of dual-use products listed in Annex I of the Council Regulation is subject to a permit if the transit carrier has received notification from the Ministry of Foreign Affairs that the products to be transported are or may be fully or partially intended for a use referred to in Article 4, paragraph 1 or 2.

The permit issued by the Ministry of Foreign Affairs must also be presented to the customs authorities for the transfers mentioned in Article 22, paragraphs 1 and 2 of the Council Regulation.

In addition, the requirement for a permit is regulated in § 4.

#### Section 3a (11.3.2011/226)

##### General license of the European Union



The exporter must notify the Ministry of Foreign Affairs of the use of the European Union general permit within 30 days of the first export delivery. In the same context, the exporter must inform the Ministry of Foreign Affairs of his name and address, where the documents stipulated in Article 20 of the Council Regulation can be inspected.

**Section 3b (11.3.2011/226)**

**Retention of license**

The exporter, broker, transit carrier and transferor must keep the permit for five years from the end of its validity period and return it to the Ministry of Foreign Affairs if required.

**Section 4 (11.3.2011/226)**

**Requirement of authorization for export, brokerage, transit and transfer of a product not included in the product list**

When the purpose is to export, broker, transit or transfer products, services or other goods that are not included in the product list attached to the Council Decree, a permit must be presented in connection with the export, brokerage, transit and transfer, if the exporter, broker, transit carrier or transferor has received a notification from the Ministry of Foreign Affairs that the product is or may be intended in whole or in part for use related to the development, production, processing, use, maintenance, storage, detection, identification or dissemination of chemical and biological weapons or nuclear weapons, or missiles suitable for launching such weapons that fall under non-proliferation arrangements for development, production, maintenance or storage.

The export of dual-use products not included in the product list is also subject to a permit if the buyer country or destination country is subject to an arms export ban imposed by a joint position or joint action approved by the Council, a decision of the Organization for Security and Cooperation in Europe or a binding resolution of the United Nations Security Council, and if the exporter has received notification from the Ministry of Foreign Affairs that the products in question are or may be wholly or partly intended for military end use. Military end use means:

- 1) inclusion in the defense equipment referred to in the Law on the Export of Defense Equipment ([282/2012](#)), hereinafter *the Land Export Act*; ([8.6.2012/285](#))
- 2) the use of production, testing or analysis equipment and their components for the development, production or maintenance of the defense equipment referred to in paragraph 1;
- 3) the use of unprocessed products in the defense equipment production facility referred to in point 1.

The export of dual-use products not included in the product list is also subject to a permit if the exporter has received a notification from the Ministry of Foreign Affairs that the products in question are or may be fully or partially intended for use as parts or components of defense equipment referred to in the Land Export Act, which have been exported from the territory of Finland without a permit or in violation of the permit provided for in Finnish legislation.

If the exporter knows or has reason to suspect that the product is intended in whole or in part for one of the uses mentioned in subsections 1–3, he must notify the Ministry of Foreign Affairs, which decides on the need for a permit. If the broker knows that the products for which the broker provides brokerage services are intended in whole or in part for one of the uses referred to in subsection 1, the broker must notify the Ministry of Foreign Affairs, which decides on the need for a license.

**Section 4a (11.3.2011/226)**

**Failure to issue a permit**

The permission of the Ministry of Foreign Affairs can be withheld in cases where:

- 1) Compliance with international agreements, commitments and obligations concerning Finland requires it;
- 2) The promotion of Finland's foreign and security policy goals or Finland's security interests and supporting the maintenance of international security require it;



- 3) ensuring accessibility of access to products covered by strategic export control originating from abroad or complying with the conditions regarding their access requires it;
- 4) goods or services have been brought to Finland with re-export restrictions or bans; or
- 5) aspects related to the intended final use and the risk of circumvention require it.

#### **Section 4b (11.3.2011/226)**

##### **Foreknowledge**

Upon written application, the Ministry of Foreign Affairs can give the exporter, broker, transit carrier and transferor written advance information on the conditions for granting the permit. The criteria laid down in Article 12 of the Council Regulation shall be applied to resolving advance notice. Binding advance information is given for a fixed period. However, prior information does not bind the Ministry of Foreign Affairs if there is a significant change in circumstances after the prior information is given.

#### **Section 5 (11.3.2011/226)**

##### **Revoking the license or changing its terms**

The Ministry of Foreign Affairs has the right to cancel the permit or change its conditions if incorrect information has been given in the application or if the circumstances have changed after the permit was granted in such a way that Finland's international commitments or obligations require it.

#### **Section 6 (11.3.2011/226)**

##### **Export Control Advisory Board**

In principle, there is an export control advisory board appointed by the Government for the preparation of significant export control matters.

The duties, number and appointment of members of the Advisory Board are regulated in more detail by a government decree.

#### **Section 7**

##### **Right of inspection and access to information**

The Ministry of Foreign Affairs, the customs authority and the tax authorities have the right, without being hindered by confidentiality regulations, to provide each other with such exporters and exported dual-use products information that the authorities need in their supervisory role. This information may be disclosed to the supervisory authorities of the European Union. About the right of the General Staff to receive from the Ministry of Foreign Affairs dual-use products related information is regulated in the Act on Military Discipline and Crime Prevention in the Defense Forces (255/2014). (28.3.2014/261)

The exporter, financial institution and others who possess information necessary for export control are obliged to provide the authorities referred to in subsection 1 with their accounting, correspondence and other information necessary for control upon request.

The persons appointed by the supervisory authorities have the right, when carrying out supervision related to compliance with the export conditions, to inspect goods at the exporters' premises and the manufacture of the goods to be exported, as well as the exporters' accounting and correspondence. If the inspection is carried out at the inspected person's place, the necessary aids and helpers must be made available to the inspector. In the area of home peace, an inspection may only be carried out if there is a justified reason to suspect that the person concerned is guilty of a procedure that is punishable against this law.

What is stipulated in subsections 1–3 about exporters also applies to transferors, brokers and transit carriers. (11.3.2011/226)

Information acquired or otherwise obtained pursuant to this section may not be misused or disclosed to third parties.

#### **Section 7a (11.3.2011/226)**

**Taking possession of goods to be transported and applying for a permit**

<https://www.finlex.fi/fi/laki/ajantasa/1996/19960562?search%5Btype%5D=pika&search%5Bpika%5D=kaksikäyttötuotteita#P2>

Customs must take possession of a transited dual-use product if customs has reasonable grounds to suspect that the transited dual-use products are or may be either wholly or partially intended for use related to the development, production, processing, use, maintenance, storage, detection, for identification or dissemination, or for the development, production, maintenance or storage of such missiles suitable for targeting weapons falling within the scope of non-proliferation arrangements.

Customs must notify the transit carrier of the takeover, who must then apply for a permit for transit transportation within 90 days of notification. If a permit is not requested for the goods to be transported within the deadline, the customs office must transfer the matter to the Ministry of Foreign Affairs.

#### **Section 7b (11.3.2011/226)**

##### **Decision and appeal regarding the transit permit (7 August 2015/895)**

If the Ministry of Foreign Affairs grants a permit for transit or deems that a permit is not necessary, the seized goods must be returned to the transit carrier.

If the Ministry of Foreign Affairs does not grant permission for transit, the ministry must order the goods to be returned to their country of origin. If, however, there is reasonable reason to suspect that the goods would be used in the country of origin for the purpose of section 7a subsection 1, the Ministry of Foreign Affairs must order the goods to be destroyed by customs. If the goods are dangerous in nature, the Ministry of Foreign Affairs can at the same time order that the disposal decision must be implemented immediately despite the appeal.

The decision of the Ministry of Foreign Affairs can be appealed by appealing to the administrative court as stipulated in the Administrative Jurisdiction Act (586/1996). The decision of the Administrative Court may be appealed by appeal only if the Supreme Administrative Court grants permission to appeal. (7/8/2015/895)

#### **Section 7c (11.3.2011/226)**

##### **Compensation liability for destroyed goods in transit**

If the goods have been disposed of before the disposal decision became legally binding and the court, following an appeal, has decided with the force of law that there were no prerequisites for disposal, the owner of the goods or the person who otherwise has a right to the goods can apply for compensation from the state for the goods.

#### **Section 7d (11.3.2011/226)**

##### **Forwarder's liability for compensation**

The freight forwarder is responsible for the costs incurred during the permit and appeal procedure for the storage of the goods to be transported, as well as the costs incurred for returning the goods to their country of origin or disposal.

#### **Section 8 (11.3.2011/226)**

##### **Control of export, brokerage, transit and transfers**

The customs department supervises the export, brokering, transit and transfers of dual-use products.

#### **Section 9**

##### **Penalties**

The punishment for willful violation or attempted violation of Sections 3 and 4 of this Act or an order issued by an authority based on them is stipulated in Sections 1–3 of Chapter 46 of the Criminal Code (39/1889). (26.10.2001/884)

Penalty for negligent violation of the obligation to report stipulated in Section 4, Subsection 4 of this Act is provided for in Chapter 46, Section 12 of the Criminal Code. (12.6.2009/430)

The authority may not take measures to bring the suspect to justice, when the act is considered to be minor, taking into account its harmfulness and the resulting guilt of the perpetrator, and the public interest does not require prosecution.





**Section 10 (11.3.2011/226)**

Section 10 has been repealed by L [11.3.2011/226](#).

**Section 11**

**Entry into force and transitional provisions**

This law enters into force on August 1, 1996.

This law repeals the law on securing the country's foreign trade and economic growth of 15 February 1974 ([157/74](#)) with subsequent amendments. However, the regulations in force when this law came into force continue to apply to export licenses issued on the basis of the repealed law. References to the repealed law in other legislation are deemed to mean the corresponding section of this law after this law enters into force.

Before the law enters into force, the necessary measures for its implementation can be taken.

Council Regulation (EC) No. 3381/94; OJVL No. L 367, 31.12.1994, p. 1, others. 837/95; OJVL No. L 90, 21.4.1995, p. 1., Council Decision 94/942/CFSP; OJVL No. L 367, 31.12.1994, p. 8, others. 95/127/CFSP and 95/128/CFSP; Official Journal No. L 90, 21 April 1995, pp. 2–3, 96/173/CFSP; OJVL No. L 52, 1.3.1996, p. 1 and 96/423/YUTP No. L 176, 13.7.1996, pp. 1–4, HE [69/96](#), PeVL 18/96, TaVM 8/96 , EV 89/96

**Entry into force and application of the amending regulations:**

**27.10.2000/891:**

This law enters into force on November 15, 2000.

This law repeals the decree (645/1996) issued on August 23, 1996 on the export control of dual-use products, as well as the decision of the Ministry of Trade and Industry issued on January 9, 1997 ([54/1997](#)) on the export licensing of dual-use products .

The regulations that were in force at the time of their entry into force shall apply to permit applications initiated before the entry into force of this law.

[HE 116/2000](#) , TaVM 20/2000, EV 115/2000

**26.10.2001/884:**

This law enters into force on January 1, 2002.

[HE 80/2000](#) , LaVM 14/2001, EV 94/2001

**27.6.2003/581:**

This law enters into force on July 1, 2003.

When this law enters into force, pending applications will be processed by the Ministry of Foreign Affairs.

Before the law enters into force, the necessary actions for its implementation can be taken.

[HE 14/2003](#) , UaVM 2/2003, EV 9/2003

**12.6.2009/430:**

This law enters into force on October 1, 2009.

[HE 197/2008](#) , LaVM 4/2009, EV 45/2009

**11.3.2011/226:**

This law enters into force on April 1, 2011.



This law repeals the Government Decree on export control of dual-use products (924/2000).

The regulations that were in force when this law entered into force apply to permit applications initiated before the entry into force of this law.

HE 201/2010 , UaVM 12/2010, EV 283/2010

**8.6.2012/285:**

This law will enter into force on June 30, 2012.

HE 93/2011 , PuVM 3/2012, EV 29/2012, European Parliament and Council Directive 2009/43/EC (32009L0043); EUVL No: L 146, 10.6.2009, pp. 1-36

**28.3.2014/261:**

This law enters into force on May 1, 2014.

HE 30/2013 , HaVM 5/2014, EV 15/2014

**7.8.2015/895:**

This law enters into force on January 1, 2016.

In an appeal, the administrative decision issued before the entry into force of this Act shall be subject to the provisions in force when this Act entered into force.

HE 230/2014 , LaVM 26/2014, EV 319/2014

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