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VJENË

PERMANENT MISSION OF THE
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THE INTERNATIONAL
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NOTE VERBALE

The Permanent Mission of the Republic of Albania to the International Organizations in Vienna presents its compliments to all Permanent Delegations and Missions to the OSCE and to the Conflict Prevention Centre, and with reference to the Forum for Security Co-operation Decision FSC.DEC 20/95, has the honor to submit the response to the Questionnaire on Conventional Arms Transfers.

The Permanent Mission of the Republic of Albania avails itself of this opportunity to renew to all Permanent Delegations and Missions to the OSCE and to the Conflict Prevention Centre the assurances of its highest consideration. 

Vienna, 29 May 2017



To: All Permanent Delegations and Missions to the OSCE
OSCE Conflict Prevention Centre
OSCE Secretariat

REPUBLIC OF ALBANIA

QUESTIONNAIRE ON PARTICIPATING STATES' POLICY AND/OR NATIONAL PRACTICES AND PROCEDURES FOR THE EXPORT OF CONVENTIONAL ARMS AND RELATED TECHNOLOGY

(Provided in accordance with decision no. 20/95 of the Forum for Security Co-operation)

**TO: ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE
FORUM FOR SECURITY CO-OPERATION**

28 May 2017

**Questionnaire on Participating States' Policy and/or National Practices
and Procedures for the Export of Conventional Arms and Related Technology**

OSCE participating States are requested to provide details of:

1. Their basic principles, policies and/or national practices on the export of conventional arms and related technology.

The Council of Ministers of the Republic of Albania has adopted the "EU Code of Conduct on Arms Export", (Government Decision N0. 604, date 28.08.2003). Therefore, basic principles, policies and national practices on the export of conventional arms and related technology are based on EU Code of Conduct.

COUNCIL COMMON POSITION 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment.

Based on the law over export controls: Principles of State Export Control Policy

The state export control policy is built on the following principles:

1. *Priority of national interest – political, economic and military - of which protection is necessary for guaranteeing national security.*
2. *Protection of political, economic and military interest of the country.*
3. *Obligation to observe the international commitments accepted by the Republic of Albania to Non-Proliferation Treaty of Weapons of Mass Destruction, the ways for their non-proliferation, and to ensure state control over international transfer of goods assigned for military purpose, and dual-use goods, as well as to prevent these goods from being used for terrorist acts and other illegal activities.*
4. *Legality.*
5. *Conduct of export control to the extent required to achieve its purpose only.*
6. *Harmonisation of state export control procedures and regulations with international legal norms and practices.*
7. *Ensuring interaction with international organisations and foreign countries in the state export control area, therefore reinforcing international security and stability, including countervailing of weapons of mass destruction and systems for their proliferation.*

2. Their national legislation governing the export of conventional arms and related technology. If applicable, report changes and/or updates to the data provided in 1995, including any relevant subsidiary legislation.

- *The Law No. 9707, date 5.4.2007 "On State Export Control of Arms Transfer, Dual Use Goods and Related Technologies".*
- *Ministries Council Decision No.43, date 16.01.2008 "On organizing, function and status of State Export Control Authority"*

- *The Council of Ministers Decision 703, on 12.10.2016: “On the approval of the updated lists of military goods and related technologies with dual use, which undergo the import-export state control”.*
 - *The Council of Ministers’ Decision 305, on 25.3.2009 “On the designating procedure, regarding the issuing of assured legal documents in the field of state control activities of import-export, military goods, and related technologies of dual use”.*
 - *The Council of Ministers’ Decision 304, on 25.3.2009 “On the designating procedures regarding expertise’s fulfillment and the control by the State Control Authority of Exports”.*
 - *The Council of Ministers’ Decision 604, on 28.8.2003 “On approval, in principle, of code of conduct of European Union on weapons exports”.*
 - *The Council of Ministers’ Decision 341, 8.4.2009 “On designating fees for issued legal documents”.*
 - *The Council of Ministers’ Decision 76, on 30.12.2008 “On designated format, schedules and presentation time of reports”.*
3. Any international agreements or guidelines, other than OSCE commitments, covering the export of conventional arms to which they are a party.

Import-export state control over military goods and those of dual use, and of other technologies is a joint international initiative which came as a result of the need to oversee the transfer of highly-sensitive goods.

- *Key international norms in this field:*
- *Arms Trade Treaty*
- *The UN Security Council Resolution 1540 specifies obligations of UN member states concerning the control over the transfer of goods, by establishing effective systems of state control.*
- *The European Union Regulation 428/2009, and a series of joint positions and actions, which have resulted in a intertwined system control of transfer of military goods and of dual use.*
- *Code of Conduct on arm exports applied by the European Union, approved by the Republic of Albania, with the Council of Ministers Decision 604, on 28.08.2003 “On the approval in principle of the EU Code of Conduct on arms export.”*
- *COUNCIL COMMON POSITION 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment.*
- *The norms which derive from international treaties such as the Treaty of Wassenaar, the Non-Proliferation Treaty of Missiles, the Group of Australia, the Chemical Weapons Convention, the Zangger Comitee etj.*
- *The state supervision of these goods is part of the MSA agreement, required to be fulfilled by Albania.*

Albania is fully complying with UN Security Council, OSCE, EU arms embargo and provisions of EU code of conduct on arms transfer and international obligations of member states.

4. The procedures for processing an application to export conventional arms and related technology:

- who is the issuing authority?

The state agency for export-import control over military goods, and dual-use goods and technologies is called the State Export Control Authority that is under Minister of Defence and has the authority on issuing, licences, authorizations and certificates (end-user certificates / international import certificates)

Also Albanian State Export Control Authority by law is national contact point in every international agreement on export control.

- what other authorities are involved and what is their function?

Besides the State Export Control Authority, on procedures for processing an application are involved Ministry of Defense, Ministry of Foreign Affairs, Ministry of Economy, Costumes, Intelligence Services.

They have informative function.

- Who deals with compliance?

The State Export Control Authority

5. Lists of conventional weaponry under national export controls and the basis for their control. If applicable, report changes and/or updates to the data provided in 1995.

Based on the Council of Ministers Decision 703, on 12.10.2016, "On the approval of the updated lists of military goods and list of technology goods with dual use, which undergoes state control of import-exports. The list used for this purpose is the Joint Military List of European Union (approved by the Council on March 10, 2008.)"

6. Principles and national regulations on the destination or end-user of the equipment. Is there a complete *ergo omnes* system or a published list of

- destinations of concern?
- embargoed countries?
- differentiation between destinations (e.g., is there any preferential treatment of (groups of) countries)?

Albania is fully complying with UN Security Council List of Embargoed Countries, OSCE and EU arms embargo and provisions of EU code of conduct on arms transfer.

8. Requirements for the provision of an end-user certificate in an export license application, or of non-re-exportation clauses, or of any other type of certification before and after

delivery for conventional arms export contracts. If applicable, please specify any verification of the end-user certificate and/or non-re-exportation clauses before and after delivery.

- *Law No. 9707, date 5.4.2007 “On State Export Controls of Arms Transfer, Dual Use Goods and Related Technologies”.*

Entities involved in the international transfers of goods are obligated to take measures for verification of delivery and end-use of goods and submit relevant information to the Duly Authorized State Export Control Body (The State Export Control Authority), as well as to assist the expert authorized state bodies in implementation of such verifications.

The State Export Control Authority and other authorized state bodies are entitled to conduct the procedure of verification of delivery or end-use of goods at any stage of the international transfer and after actual delivery to the end user.

1. An entity involved in international transfers of goods provides the State Export Control Authority with comprehensive and accurate information about end use of goods, the objects of international transfer, as well as copies of the original guarantee for use of goods solely in keeping with the purpose of use stated by end user.

2. Entities involved in international transfers of goods undertake measures for checking on arrival of goods at destination and for end use, and, following this verification, provide the State Export Control Authority with the information required for carrying out the necessary verification.

3. In conformity with the procedures provided for in points 4, 5, 6 and 7 of this Article, the State Export Control Authority and the other authorised state bodies have the right to checking on arrival [of goods] at destination and use of goods at every stage of international transfer, even following arrival at end user.

4. State control over local end users concerning adherence to pledges surrounding use of imported goods in line with the stated purpose, is conducted on the basis of analysis of reports submitted by the entity, being the end user, on actual use of goods, as well as on the basis of controls over goods conducted selectively by end user.

5. Such controls are conducted by officials authorised by the State Export Control Authority.

6. Representatives of foreign exporters or state bodies of the exporting country may also participate in checking on Albanian end user’ actual use of goods previously imported under state guarantee for their use, in compliance with the stated purposes, only if it is prescribed by economic agreements or contracts, or if this right derives from obligations contained in international agreements, to which the exporting country and the Republic of Albania are parties.

7. The State Export Control Authority may check on foreign end user’s use of goods imported by entities involved in economic activities with foreign countries, and by foreign entities or other entities from Albania to the territory of the countries of these users, under state guarantee of their use in line with the stated purposes, only if it is provided for in economic agreements or contracts, or if this right derives from obligations contained in international agreements, to which the Republic of Albania and the exporting country are parties.

8. Procedures concerning issuing of guarantees and conduct of state control, in accordance with obligations surrounding use of goods, the object of state export control, including

issuance of international import certificates and customs declaration of arrival [of goods] at destination, is established upon decision by the Council of Ministers.

- *According to The Council of Ministers' Decision 304, on 25.3.2009 "On the designating procedures regarding expertise's fulfillment and the control by the State Control Authority of Exports", State Export Control Authority conducts controls and expertise in the following phases:*

- a) Before registering commercial entities, which conduct international transfers of military goods and brokering activities in these transfers;*
- b) After registration of business entities that conduct international transfers of military goods,*
- c) Before licensing / authorization of trading entities;*
- d) After licensing / authorization of commercial entities.*

3. Mainly State Export Control Authority, expertise and performs checks to:

- a) accurately identify the goods or technology,*
- c) Determining the amount of goods to be exported / imported or transit pass in the territory of Albania;*
- d) Determining the origin of goods;*
- f) Verification, if the end use declared of these goods / technologies is technically acceptable with the end use declared;*
- e) Verification whether recent use is declared fit logically with the activities of the end user;*
- h) Accurately confirm of the existence of the end users and accurately identify the activities of the end user;*
- f) Verification, if in the past the end user was involved in activities related to proliferation of weapons of mass destruction, or having direct links with countries that support the proliferation of weapons of mass destruction.*

8. National definition of transit and transshipment (including free zones) of conventional arms, together with associated national legislation and compliance procedures.

Movement of goods from one foreign country to another via the customs-controlled territory of the Republic of Albania, being transported from one check-point to another or crossing the Albanian state border only once, except for cases where, in the course of this legal movement across the territory of the Republic of Albania, ownership of or the right to using these goods is transferred from one person to another:

Law no 9707 of 5.04.2007, "On State Export Controls of Arms Transfer, Dual Use Goods and Related Technologies"

9. The procedures governing companies wishing to export arms. Are companies obliged to seek official governmental authority to enter into contract negotiations or to sign contracts with foreign customers?

An entity involved in foreign economic activities has to follow these steps:

- *Registration (has to be registered as a company which is involved in transfers or brokering activities with military goods)*
- *Authorization (State Export Control Authority issue a authorization to enter into contract negotiations or to sign contracts with foreign customers)*
- *License (After the first two steps are complete the State Export Control Authority, issues an export license as requested)*

10. Policy on the revocation of export licenses once they have been approved; please list any published regulations.

- *Law No. 9707, date 5.4.2007 “On State Export Controls of Arms Transfer, Dual Use Goods and Related Technologies”.*

Apart from imposition of fines as a result of the violation of the law, the duly authorized state export control body may cancel or revoke licenses or international import certificate respectively that it is granted to an entity of foreign economic activity, or cancel registration of a business entity in this body as an entity involved in international transfers of goods.

Licenses and international import certificate may be cancelled or suspended by the duly authorized state export control body in the event of:

-In the event of an emergency involving national security needs and interest, or in order to ensure fulfilment of the international obligations of the Republic of Albania.

-If an entity goes into liquidation, in line with the relevant legal procedures.

-If the entity involved in international transfers of goods goes bankrupt, and the relevant bankruptcy legal procedures are started against it.

-If there is need for the State Export Control Authority to conduct additional expertise of the documents submitted by the entity involved in international transfers of goods, which is applying for licence, authorisation, or international import certificate.

-If notice is taken that the entity involved in international transfers of goods has violated the legislation, including legislation on export control, provided for in Article 30 of this Law.

11. The penal and administrative implications for any exporter failing to comply with national controls. If applicable, report changes and/or updates to the data provided in 1995.

- *Law No. 9707, date 5.4.2007 “On State Export Controls of Arms Transfer, Dual Use Goods and Related Technologies”.*

In the event that they do not fit into criminal offences under the Criminal Code, the following violations constitute administrative contraventions:

For different violations made by entity involved in international arms transfer the law impose different fines up to double the price of goods transferred. Apart from that, the duly authorized state export control body may cancel or revoke a license or international import certificate respectively that it is granted to such entity of foreign economic activity, or cancel registration of such business entity in this body as an entity involved in international transfer of goods.

The State Export Control Authority imposes the following fines to trade entities involved in international transfers of goods:

- 1. For violations prescribed by Article 30, points 1, 2 and 3, of this Law, [they are fined] from 5.000 – 20.000 USD.*
- 2. For violations prescribed by Article 30, points 4, 5 and 6, of this Law, [they are fined] from 2.000 – 10.000 USD.*
- 3. For violations prescribed by Article 30, points 7 and 11, of this Law, [they are fined] from 1.000 – 5.000 USD.*
- 4. For violations prescribed by Article 30, point 8, of this Law, [they are fined] up to 500 from 200 – 2.000 USD*
- 5. For violations prescribed by Article 30, points 9 and 10, of this Law, [they are fined] from 100 – 1.000 USD*

- In Article 278, of the Criminal Code of the Republic of Albania, the Illegal Production and Possession of military weapons and ammunitions (supplemented by paragraphs I and II from law no. 8279, of 15.1.1998, Article 2, amended paragraph I, II and III and supplemented by paragraph IV of the law no. 8733, of 24.1.2001, Article 60), provides for:*

In article 278/a of the Criminal Code of the Republic of Albania, The trafficking of weapons and ammunition, (supplemented by law no. 8733, of 24.1.2001, article 61), provides for:

“Seven to fifteen years in prison for importing, exporting, transiting and trading illegally military weapons and ammunition with the aim of making material or any other type of profit.”

If this criminal act is committed in accomplice, is a repeat offence or has grave consequences, the punishment varies from ten to twenty years in prison.

12. Any circumstances in which the export of arms does not require an export licence.

- Law No. 9707, date 5.4.2007 “On State Export Controls of Arms Transfer, Dual Use Goods and Related Technologies”.*

This Law is not applicable to:

a) transfer of goods in connection with events held by the Armed Forces, or other state security structures of the Republic of Albania outside of its territory, or with events held by foreign military forces in the territory of the Republic of Albania, as part of international agreements laying down the mechanism of state control over the movement of these goods;

b) international transfers of anaesthetics (medical anaesthetic gases), sports and hunting arms, gas-containing vessels, and exportation and importation of individual armament of military servicemen, and state law enforcement and internal security bodies, which, under law, are entitled to carry arms;

c) state control procedures concerning international export transfers of goods, which aim at ensuring provision of military assistance in accordance with the terms contained in international agreements and treaties to which the Republic of Albania is a party, and the movement of goods outside of Albania with a view to offering emergency assistance to foreign countries, if this is established by law.

13. Licenses for temporary export (e.g., demonstrations or testing), the period allowed and any special conditions attached to the license, including verification of return procedures.

Single-use license and authorisations may be issued to trade entities involved in transshipment of goods, and temporary importation/exportation of goods for exhibitions, fairs, advertising, testing, and other similar purposes, if this does not call for transfer of ownership.

14. Licence documents and any standard conditions attached to it (copies to be provided).

An entity involved in the international transfers of goods shall submit documents and information necessary for its activity in the field of export control on request of the authorized state export control body, including documents or guarantees, technical certificates and other documents related with signing and performance of foreign economic agreements (contracts) on international transfers of goods, as well as to insure keeping of documents related with implementation and execution of such agreements (contracts) with respect to which permits, conclusions or international import certificates were received during five years from the moment of completion of relevant international transfer of goods.

15. Different types (e.g. individual, general, restricted, full, permanent, etc.) of licences and what they are used for.

The Duly Authorized State Export Control Body issues single-use, general or unlimited licences and authorisations.

a. Single-use licences and authorisations may be issued to trade entities involved in international transfers of goods so as to conduct negotiations for specific economic agreements/contracts with foreign countries, to carry out international transfers of goods, or particular transfers of goods, in conformity with the above-mentioned agreements, which are valid for a certain period of time, but no longer than one year. On the basis of the application deposited by an entity involved in the transfer of goods, the State Export

Control Authority may extend this timescale, but not beyond the validity time-limit set forth in the economic agreement to which this license/authorisation refers.

b. General licences and authorisations may be issued to entities involved in international transfers of goods, so as to conduct occasional negotiations for signing economic agreements with foreign countries, or multiple transfers to specific end users, provided for in the economic agreement /contract with foreign countries concluded while this licence/authorisation was valid, and is valid for the said period, but for no longer than three years.

c. Unlimited licences and authorisations may be issued to entities involved in international transfers of goods, if they are occasionally engaged in negotiations scheduled for signing an economic agreement /contract with foreign countries, or in cases of multiple transfers of goods to different end users in a specific country, as provided for in the economic agreement/contract with foreign countries designed to be concluded with individual importers during the term of validity of the licence/authorisation, as part of the relevant international treaties, or transfers involving countries, which are parties to the international export control regimes, or the relevant object of state policy, and are effective for a definite period of time, but for no longer than three years.

The binding terms for issuing special, general and unlimited licences and authorisations to entities involved in international transfers of goods, provide for preservation of the inter-organisational export control system in these entities, ensuring of observation of export control requirements in the process of international transfers of specific goods, keeping of documentation relating to these transfers, and submission of the relevant reports to the State Export Control Authority.

16. Advice given to exporters as to licensability, such as the likelihood of approval for a possible transaction.

For a decision on issue of license or international import certificate, an entity involved in international transfers of goods or a foreign business or other entity shall turn to the authorized state export control body with a relevant written request and submit documents necessary for expert examination and decision-making on the request. Those documents shall contain exact data of the goods, procedures of their international transfers and acknowledgement of such transfer original versions of guarantees are submitted along with the request.

Review of requests on granting of permits, conclusions or international import certificates will be conducted by duly authorized state export control bodies with participation, if necessary, or other state bodies, as well as enterprises, institutions and organizations irrespective of the form of ownership if issues are reviewed that fall into their sphere of competence.

A request for issue of a license or international import certificate shall not be considered if:

Request is submitted (signed) by a person that has no relevant powers,

Any documents were missing or executed in violation of requirements of the law,

If a request for issue of license or international import certificate remains not considered, or if a decision is taken that this request is declined, the duly authorized state export control body informs the applicant and the state body, to whom belongs the sphere of competence of the applicant within three days after relevant decision is taken, accompanied with explanation of reasons.

17. The average number of export licences issued annually and the staff engaged in the export licensing procedure.

*The export licenses issued are approximately 20 licenses per year.
The staff engaged in the export licensing procedure is up to 16 officers.*

18. Any other relevant information pertaining to the export of conventional arms and related technology, e.g., additional laws, reports to Parliament, special procedures for certain goods.

Albanian State Export Control Authority reports periodically over annual crucial developments on import export control of arms, dual use goods and related technologies to the Minister of Defense witch reports annually to the Council of Ministries.

Albanian State Export Control Authority, contribute on reports, which are an obligation of Albania as a state member of UN, (UN register on conventional arms, UN program on preventing combating and stopping illegal trade of SALW), as undersigning party of OSCE document on SALW.

19. Are all guidelines governing conventional arms transfers nationally published?

Yes

State Export Control Authority has provided a website www.akshe.gov.al, where entities involved on conventional arms transfers may find the necessary information regarding international transfers on conventional arms.