



NOTE VERBALE

021302/2020-ATSM1-30

The Permanent Mission of the Slovak Republic to OSCE presents its compliments to all Permanent Missions and Delegations to the OSCE and to the OSCE Conflict Prevention Centre and with the reference to FSC.DEC/20/95 has the honour to enclose the Slovak Republic's responses to the Questionnaire on Conventional Arms Transfers for the year 2019.

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

Vienna, 23 June 2020



Enclosure

Questionnaire on Conventional Arms Transfers for 2019

To the Permanent Missions and Delegations to the OSCE
To the Conflict Prevention Centre
Vienna

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

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

In carrying out the export controls, Slovakia strictly adheres to its international obligations, including the UN, EU sanctions, as well as to the OSCE commitments, and takes into account other relevant recommendations, including recommendations of multilateral export control regimes as well as the EU Council Common Position 2008/944/CFSP.

2. National legislation governing the export of conventional arms and related technology:

The legislative basis for the export of conventional arms and related technology is the Act No. 392/2011 on trading with defence industry products and on amendments and supplements of certain acts. Act No. 144/2013 sets the conditions for trade control of all SALW, with exception of categories for military use. The newly amended Act No. 190/2003 transposed the Directive 2008/51 EC of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons.

3. Any international agreements or guidelines, other than OSCE commitments, covering the export of conventional arms:

The authorized person must refrain from trading with defence industry products if such a trade would harm the Slovak foreign policy, security or trade interests, international commitments of the Slovak Republic, or the interests of organizations and institutions, of which Slovakia is a member or which the Government of Slovakia recognizes, including the UN sanctions, the EU arms embargoes, the Wassenaar Arrangement Munitions List, MTCR Technical Annex, EU Council Common Position 2008/944/CFSP, and EU Council Regulation 258/2012.

Slovakia applies strict and comprehensive national controls on the arms transfers according to international commitments resulting from the respective UN Security Council resolutions. More, Slovakia fully supports the on-going negotiations towards the Third Conference of the Arms Trade Treaty and its full implementation. Slovakia is a signatory of the UN Protocol against the Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components and Ammunition supplementing the UN Convention against Transnational Organized Crime.

4. The procedures for processing an application to export conventional arms and related technology (the issuing authority, other authorities involved):

Applicant has to submit a written license application to the Ministry of Economy. It has to be submitted together with documents stipulated by law (e.g. signed contract with a foreign partner for trading within specific category and quantity of the defence industry product; original document on end-use certified by respective authority in end-user's country and validity of which shall not exceed six months from the date of its issue; applicant's declaration allowing inspections of places and buildings where the defence industry product is located in accordance with the actual legislative acts in force and international agreements signed by the Slovak Republic; approval of the Ministry of Defence or Ministry of Interior to export discarded defence industry products; approval of the Ministry of Defence or the Ministry of Interior to import defence industry products for defence and security purposes; valid contract between applicant and domestic manufacturer where the applicant is not the manufacturer and further documents upon request of the Ministry of Economy in order to examine in detail each particular case). The application is examined by experts of several

sectors, including from the above ministries, Ministry of Foreign and European Affairs (right to apply veto to any trade), Customs Office, and National Security Authority.

5. Lists of conventional weaponry under national export controls and the basis for their control:

Decrees of the Ministry of Economy of the Slovak Republic: No. 3/2011, 1/2012, 2/2012, 2/2013, 3/2013, 2/2014, 1/2015, 1/2016, 1/2017, 1/2018 and 2/2019.

Legal basis for the control of conventional weaponry is the Act No. 392/2011 on trading with defence industry products and on amendments and supplements of certain acts, and Act 144/2013, which sets the conditions for trade control of SALW, with exception of categories for military use.

6. Principles and national regulations on the destination or end-user of the equipment. Published list of destinations of concern:

When performing export controls, Slovakia strictly adheres to its international obligations, including the UN and EU sanctions as well as the OSCE commitments, and takes into account other relevant recommendations, including recommendations of multilateral export control regimes as well as the EU Council Common Position 2008/944/CFSP. A list of destinations of concern does not exist, but the web of the Ministry of Foreign and European Affairs contains a list of countries under embargoes, links to the relevant EU sanctions and relevant documents.

7. 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:

The Slovak Republic requires original of the end-user certificate issued by a national authority of the state of final destination including appropriate non-re-exportation clauses. In case of non-governmental recipient, the certification from governmental agency is also required.

The end-user certificate must include:

1. name of end-user's respective national authority,
2. business name of the Slovak exporter, who is authorised by the Customer's central authority to deliver the defence industry product,
3. business name of the importer in Customer's country which supplies the defence industry product to the Customer,
4. exact specification of the defence industry product,
5. non-reexportation clause,
6. legible first name and surname of the national authority official in Customer's country and seal of the respective authority in Customer's country.

In case of a sensitive destination, an exporter is asked to provide a certificate of delivery to the stated end user.

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

General definition of transit is covered by the Act No. 35/2013 (Customs Act) and the Act No. 392/2011 on trading with defence industry products and on amendments and supplements of certain acts, stipulating conditions for the transit of conventional arms through the Slovak territory. A transit license is only required if a period of transit is more than seven days.

9. The procedures governing companies wishing to export arms:

The export of conventional arms is only legitimate if carried out by a legal entity holding an authorisation for arms trade with issued in compliance with valid legislation.

The following criteria have to be met:

- a) capital stock of the license applicant who is not manufacturer of defence industry products shall be at least 166 000 EUR with more than 51 % contributions paid up by intrastate people,
- b) the statutory body or members of the statutory body and the responsible representative of the applicant for license who shall be aged at least 25 years old, resides permanently or in the long term on the territory of the Slovak Republic, shall have legal capacity, be blameless and reliable,
- c) activities are in accordance with the foreign policy, security or trading interests of the Slovak Republic and commitments arising from the Slovak Republic's membership in the international organisations.

10. Policy on the revocation of export licenses once they have been approved:

The Ministry of Economy cancels and revokes a granted license when the trade with defence industry products was not materialized or concluded and when:

- a) the license has been granted based on false or incomplete data,
- b) it is required by foreign policy interests of the Slovak Republic,
- c) it is required by safety interests of the Slovak Republic,
- d) conditions specified for granting license have not been met,
- e) the permission for trading and the permission to perform intermediary activity in defence industry product has been cancelled or,
- f) if authorized person violated legal regulations of the Slovak Republic or international agreements or other international documents to which the Slovak Republic is bound to while trading with defence industry products abroad or performing activities linked to this trading.

11. The penal and administrative implications for any exporter failing to comply with national controls:

The Ministry of Economy may impose penalty from 330 EUR up to 332 000 EUR to any physical person or legal entity violating the provisions of the laws relating to export control of conventional weapons.

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

Licenses are not requested for:

- a) export and handling defence industry products linked to extra territorial activities of the Slovak Armed Forces and The Slovak Police in accordance with international agreements and commitments bounding Slovak Republic,
- b) import and handling defence industry products linked to other States' armed and police corps forces, UN and other international organizations activities performed on the Slovak territory according to international agreements and commitments of the Slovak Republic,
- c) inter-community transfer of defence industry products if the transfer period does not exceed seven days,
- d) import and re-export of defence industry products if it is supposed to be used temporarily and is designated for the Ministry of Defence or the Ministry of Interior,
- e) reclaimed/recovered defence industry products,
- f) transfer of defence industry product if it is supposed to be used on temporarily basis and is designated for the Ministry of Defence.

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:

Export license is needed in cases when it is used in parallel as an import license for exhibited/tested defence industry products.

14. License document and any standard conditions attached to it:

Written license application has to be submitted to the Ministry of Economy together with agreement signed with foreign partner for trading within specific category and quantity of the defence industry product. The license applicant when participating in international public tender for import, export and other trading with defence industry product abroad according to stipulated conditions shall apply for a license once invited to submit his offer.

The license application shall include:

- a) business name and registered office of the applicant,
- b) applicant's identification number,
- c) business name and registered office or business title and business seat/residence of a foreign contractual partner,
- d) number of the permission for trading with defence industry products,
- e) number and/or items or subitems of combined denomination in Customs tariff book,
- f) name of the defence industry product classification according to the Military List of defence industry products and its volume,
- g) proposed validity of the license; however, for no longer than one year with the possibility of extension based on the request of the applicant,
- h) name of the country which defence industry product shall be imported from/exported to or names of countries where sale/purchase of the defence industry product shall be performed even if it does not necessitate transit through the territory of the Slovak Republic,
- i) purpose of export or import or of purchase and sale of the defence industry products abroad without any transit across the territory of the Slovak Republic,
- j) agreed price for defence industry products in EUR, or in the currency specified in the deal and recalculated into EUR,
- k) name and registered office of the end-user and first name, surname and address of members of their related statutory body,
- l) form of transport and specification of transport routes for export of defence industry products,
- m) approval of the producer or owner of the defence industry product,
- n) applicant's certificate of industrial safety.

Attachments to the application for a license are:

- a) original document on end-user certified by respective authority in end-user's country, in case of exported defence industry product its validity shall not exceed six months from the date of its issue,
- b) in case of re-export of the defence industry product both applications for import and export licenses shall be submitted at the same time,
- c) other documents, upon request of the Ministry of Economy in order to further examine each particular case,
- d) applicant's declaration allowing inspections of places and buildings where defence industry product is located in accordance with the Act in force and international agreements signed by the Slovak Republic,

- e) approval of the Ministry of Defence or of the Ministry of Interior with export of defence industry products de-listed from their records and approval of the Ministry of Defence or of the Ministry of Interior with import of defence industry products for the needs of defence and safety,
- f) valid contract between an applicant and a national producer, unless the applicant is a producer himself/herself.

15. Different types of licences and what they are used for:

There are two types of export licenses for:

- export,
- intercommunity transfer (in cases when an end-user has office registered in any member state of the EU).

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

Applicants are advised to consult relevant state authorities before starting to negotiate with foreign partner and submitting license application.

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

Yearly approximately 890 licenses are granted. Six persons deal with the export licensing procedure in the Ministry of Economy and another approximately fifteen persons are involved through related committees.

18. Any other relevant information pertaining to the export of conventional arms and related technology:

All relevant information is available on the website of the Ministry of Economy of the Slovak Republic: www.economy.gov.sk .

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

It is published in the Collection of Laws of the Slovak Republic and on the website of the Ministry of Economy of the Slovak Republic.