



Permanent Mission of Hungary to the OSCE, the UN and
other International Organizations
in Vienna

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NOTE VERBALE

The Permanent Mission of Hungary to the OSCE, the UN and other International Organizations in Vienna presents its compliments to all Missions and Delegations of the participating States to the Organization for Security and Co-operation in Europe and to the OSCE Conflict Prevention Centre and has the honour to provide herewith:

- Questionnaire on Conventional Arms Transfers for the year 2019;
- Information Exchange on Conventional Arms Transfers for the year 2019.

The Permanent Mission of Hungary to the OSCE, the UN and other International Organizations in Vienna avails itself of this opportunity to renew to all Missions and Delegations of the participating States to the Organization for Security and Co-operation in Europe and to the OSCE Conflict Prevention Centre the assurances of its highest consideration.

Vienna, 13 October 2020

Attachments



**To All Missions and Delegations of the participating States
to the Organization for Security and Co-operation in Europe**

OSCE Conflict Prevention Centre

Vienna

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.

Hungary's policies regarding the export of conventional arms are derived mainly from its membership in the European Union, the United Nations and the Wassenaar Arrangement.

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 export, import, transfer, transit and brokering of military equipments and related technical assistance is regulated by the Government Decree 156/2017. (VI. 16.). The aforementioned Government Decree contains the criteria of the EU's Common Position 2008/944/CFSP in its Annex no. 2.

The controlled goods are listed in Annex 1 of the Government Decree 156/2017. (VI. 16.). The list of goods follows the EU Common Military List - which is regularly updated based on the Wassenaar Arrangement's Munitions List – and the following 4 national categories added, such as:

ML 23. Equipment specifically for military purposes

ML 24. Services specifically for military purposes

ML 25. Equipment for coercion and surveillance

ML 26. Secret service devices

3. Any international agreements or guidelines, other than OSCE commitments, covering the export of conventional arms to which they are a party.

EU Common Position 2008/944/CFSP, Wassenaar Arrangement membership, UN Arms Trade Treaty.

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

- who is the issuing authority?

Government Office of the Capital City Budapest, Department of Trade, Defence Industry, Export Control and Precious Metal Assay, Unit of Defence Industry

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

Several authorities are involved in licensing the foreign trade of defence-related goods and services, forming their expert opinions with regard to applications for activity licences (registration), transfer/contract licences and negotiation licenses. The representatives of the following government bodies take part in the licensing process as members of the Military Technology Advisory Working Group:

a) the Ministry of Interior,

- b) the Ministry of Foreign Affairs and Trade,
- c) the Ministry of Defence,
- d) the Ministry of Innovation and Technology
- e) the National Customs Authority,
- f) the Counter-Terrorism Center,
- g) civil and military intelligence services
- h) police HQ.

- who deals with compliance?

Government Office of the Capital City Budapest, Department of Trade, Defence Industry, Export Control and Precious Metal Assay, Unit of Defence Industry

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.

- *EU Common Military List;*
- *Wassenaar Arrangement's Munitions List;*
- *Conventional weapons falling under the scope of the Arms Trade Treaty.*

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

- destinations of concern?

No.

- embargoed countries?

Yes.

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

Yes. General transfer licences are published for the export, import, transfer of military goods as well as for the provision or use of technical assistance in those cases when the business partners are established in one of the European Union member states and Iceland and Norway. Such a licence can be utilised for transactions that cover multiple years. Global licenses can be issued for the foreign trade with partners based in the states of the European Economic Community, Switzerland, the USA, Canada, Australia and Japan; the global licenses can cover up to 7 types of products (CN codes) and 4 trade partners (before the 22th of June 2017 global licenses could be issued only for the trade with partners based in EEC states and Switzerland) and are valid for 3+1 years (individual licenses are valid for 1+1 years).

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

An End-User Certificate template is available at the licensing authority's website and the original copy of the End-User Certificate has to be submitted with the export licence applications. The re-exportation clause is included in the End-User Certificate, but it can also be included in the issued licence itself. According to the relevant legislation export licenses can also be issued based on Import Licenses or International Import Certificates issued by the importing country; the decision as to which (if not all) of the three (EUC, IIC, IL) is required and accepted is based on the specifics of the license application (goods, quantity, destination, End User, route, etc.).

The verification of the End-User Certificate's authenticity is carried out in co-operation with the Ministry of Foreign Affairs and Trade.

The licence holders are required to keep records about the actual transfers taken place and provide statistical data about it on a quarterly basis to the licensing authority.

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

The Government Decree 156/2017. (VI. 16.) replacing it provides a definition for transit as follows:

"transit" means: the shipping process in the course of which military equipment is transported through the territory of the Hungary in such a way, that no change occurs in its customs status. The legislation does not differentiate between transit and transshipment; transshipment is licensed the same way as transit (it is a rare occurrence).

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?

Yes.

Companies are obliged to apply for licences in order to perform foreign trade activity in the field of military goods and services as follows:

- activity licence (i.e. registration): authorises companies to carry out preliminary negotiations*
- negotiation licence: authorises companies to sign the contract*
- contract/transfer licence: authorises companies to conclude the contract by transferring the goods*
- brokering licence: authorises companies to act as an intermediary between two companies of third countries or those of an EU MS and a third country.*

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

Article 6 section (2) of the Government Decree 156/2017. (VI. 16.)

*The license **shall** be revoked if*

a) any condition for issuing the license has since ceased

b) any change arises which would otherwise have given grounds to the refusal of the application,

*Article 6 section (3): „The licensing authority **can** revoke the license if the licensee breaks the provisions in this decree, the conditions stipulated in the licence or the regulations pertaining to trade.”*

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.

According to the Penal Code when the violation of the provisions of the above mentioned Government Decrees constitutes a criminal act and is punishable as follows:

- infringement: 0-3 years in prison terms

As for violations not constituting a criminal act:

- administrative fine (5000-1M HUF).

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

Article 5 of Government Decree 156/2017. (VI. 16.)

„A licence is not required if the military equipment is being transported across Hungary's borders:

a) for the purposes of military operations approved by the Parliament or the Government of Hungary, or carried out in accordance with the requirements of relevant international obligations,

b) by the European Union, NATO and IAEA for their own purposes,

c) for the purposes of providing assistance in disaster management,

d) for the purposes of military exercises carried out jointly with allies, or for demonstration purposes.

*Furthermore, a **negotiation licence is not required** for the signing of contracts with partners based in the member states of the European Union and the EEA, and Switzerland, the USA, Canada, Australia, New Zealand and Japan.*

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

Temporary export licences are issued for maximum 1 year.

A certification is required from the National Customs Authorities that the actual transfer took place.

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

Preferably original copies of End-User Certificates, International Import Certificates, Import Licences, depending on the goods and the destination. On occasion, the copies of the contracts or the public procurement tenders may also be required.

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

General transfer licences are used:

- by armed forces for their own procurement

- by certified undertakings

- for demonstration, exhibition purposes

- for maintenance and repair purposes

Valid until withdrawal.

Global transfer licences are:

- *issued for transactions to multiple foreign recipients (max.4), for more categories of items (max. 7) and valid for 3 years.*

Individual licences are issued for one transaction to one recipient and are valid for 1 year.

Negotiation licenses are issued to enable the licensee to sign a contract with partners based in certain third countries (see answer 12.).

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

The licensing authority encourages companies to carry out previous consultations before applying for an export licence.

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

Cca 300 export licences. 4 persons are engaged (not exclusively), with the head of the issuing Unit included.

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.

The licensing authority is required to report to the Hungarian Parliament about the foreign trade activities of military equipments on an annual basis. This report may also include data regarding the manufacture of military equipment (2005/CIX. Law on manufacturing military equipment).

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

Yes, all the guidelines and respective legislative framework are publicly available on www.mkeh.gov.hu.

NB: Participating States that do not export conventional arms and related technology will so inform all other participating States.