

The OSCE Secretariat bears no responsibility for the content of this document and circulates it without altering its content. The distribution by OSCE Conference Services of this document is without prejudice to OSCE decisions, as set out in documents agreed by OSCE participating States.

FSC.EMI/243/22
29 June 2022

ENGLISH only



Embassy of Finland

Vienna

VN/18788/2022
VN/18788/2022-UM-1

VERBAL NOTE

The Permanent Delegation of Finland presents its compliments to the Permanent Missions and Delegations to the OSCE and to the Conflict Prevention Centre and has the honour to submit the following:

- Questionnaire on Conventional Arms Transfers (FSC.DEC/20/95)
- Information Exchange on Conventional Arms Transfers (FSC.DEC/8/08)

The Permanent Delegation of Finland to the OSCE avails itself of this opportunity to renew to the Permanent Missions and Delegations to the OSCE and to the Conflict Prevention Centre the assurance of its highest consideration.

Vienna, 27 June 2022



Encl.

To all Delegations / Permanent Missions to the OSCE

To the Conflict Prevention Center



**Organization for Security and Co-operation in Europe
Forum for Security Co-operation**

FSC.DEC/20/95
29 November 1995

Original: ENGLISH

132nd Plenary Meeting
FSC Journal No. 136, Agenda item 3

DECISION No. 20/95

The Forum for Security Co-operation adopted a decision regarding the Questionnaire on Participating States' Policy and/or National Practices and Procedures for the Export of Conventional Arms and Related Technology (Annex).

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 basic principles, policies and national practices on the export of conventional arms and related technology are embodied in the relevant Finnish legislation. Export or transit of defence materiel is allowed only if authorisation (an export or a transit licence) has been granted. Authorisation will be issued only if it is in line with Finland's foreign and security policy and does not jeopardise Finland's security.

According to Finnish legislation the following factors shall be taken into account in the overall assessment of licence applications:

- Foreign and security policy aspects, including relevant UN, OSCE, EU and other international obligations be they decisions on arms embargoes, multilateral restraints, criteria, principles or guidelines of multilateral export control regimes.
- Analysis of the situation prevailing in the recipient country, especially with regards to human rights, including attitudes of other States to the recipient countries.
- Characteristics, intended use and military significance to the item to be exported.
- Significance of the item and export in relation to the materiel preparedness of Finnish national defence and to the development of domestic defence industry.

The Council Common Position (2008/944/CFSP) defining common rules governing control of exports of military technology and equipment is effective as such as a basis for the assessment of the applications. All applications are assessed on a case-by-case basis. The assessment includes evaluation of the product, by virtue of its characteristics and significance, the situation of the recipient country and its neighbourhood. It is significant to ensure that the exported products will not lead do, or will in all likelihood not to be used in violations of human rights, offensive armed action or other comparable unacceptable purposes inside or outside the recipient country. There are specific rules for the export licensing of components and subsystems of any defence equipment.

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 Act on the Export of Defence Materiel (282/2012)

- stipulates the different licences, authorities, procedures and sanctions
- establishes the following responsibilities:

- 1 The Government Plenary Session: if the item to be exported or transferred is included in categories 1-10 or 12 of the EU common military list and the exports are of considerable value or the foreign and security significance so require.
- 2 The Ministry of Defence: in other situations than in above and temporary export and transit licences where the ownership will not be transferred abroad.
- 3 Ministry of Foreign Affairs: responsible for foreign and security policy considerations
- 4 Customs: enforcement

Decree of the Council of State on the general guidelines of the assessment of the licences (70/2020)

Defines a list of countries which do not need foreign and security policy assessment.

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

UN, EU and other international obligations on arms embargoes, multilateral restraints, criteria, principles or guidelines.

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

- who is the issuing authority?

All licence applications for the export, transfer or transit of defence materiel are directed to the ministry of defence. MoD is the competent licencing authority. MoD also deals with preliminary statements and definitions of defence materiel. The Government Plenary Session is the licencing authority in exports in some categories of products and exports are of considerable value or foreign and security policy significance so requires.

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

The Ministry of Foreign Affairs is responsible for foreign and security policy considerations. Export licence applications and prior enquiries are dealt with in Working Group for the exports of defence materiel. The working group has representatives from Ministry of Defence, the Ministry of Foreign Affairs, the Defence Command Finland, the Finnish Security Intelligence Service, the National Police Board and the National Board of Customs. The Working Group is tasked to submit a statement to the Ministry of Defence on licence applications and preliminary request that has foreign and security policy significance and in matters requiring a definition of defence materiel for comment.

- who deals with compliance?

The supplier who has been granted an export, transfer, transit or brokerage licence are obligated to submit a report to the Ministry of Defence on the supply of items to the country of destination in accordance with the licence conditions and a report every six months on the exported, transferred, transited or brokered defence materiel.

The Customs monitors the exports, transfer and transit of defence materiel.

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.

Act on the Export of Defence Materiel (282/2012) section 3: A defence-related products referred to in this Act means the products defined on the Common Military List of the European Union (common military list).¹

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?

Finland doesn't apply a separate national list of destinations of concern.

- embargoed countries?

Finland doesn't apply a separate list of embargoed countries.

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

A simplified licencing procedure (licence granted by the MoD if no significant financial value, opinion of the Working Group for the exports of defence materiel is not necessary) is applied in the following situations:

1. List of countries with no foreign and security restraints (Decree d 70/2020): EU and EEA-countries, Switzerland, Australia, Canada, Japan, New Zealand, United Kingdom and United States.
2. The item to be exported is intended for use in a peace-keeping operation or in crisis management mission implemented or authorized by the UN or the OSCE.

The list of countries is based on the countries' membership in multilateral export control regimes that require an efficient national export control system. However, every licence application is assessed on a case-by-case basis within these countries as well.

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

¹ Civilian firearms and ammunition are controlled by the National Police Board (Firearms Act 1/1998).

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

An original end-use certificate (which includes a non-re-exportation clause) is required if complete products are exported.

In exports of sub-systems or components, the consignee's declaration of use in own production is required. In these cases, re-export of the complete products will be managed on the basis of the export legislation of the country of destination.

Other additional information, e.g. commercial contract, purchase order, recipient's right to import such products, is also usually required.

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

In Finnish legislation transit is defined as "transport defence materiel via Finland if the exporter or the recipient or both are outside European Economic Area" (Act on the export of defence materiel 282/2012, Section 8).

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?

The Ministry of Defence shall, upon request, advice in response to a preliminary enquiry, on whether the intended export is acceptable on foreign and security policy grounds. Regarding export aspirations to more sensitive countries or end-users, the applicants are often advised to make such a request just in order to avoid situations where an already negotiated order is not granted the necessary licence. Preliminary Statement does not bind the decision maker in licence application phase if the circumstances have changed meanwhile. No formal prior approval is however required for making a commercial offer or a contract. An export licence (or suitable transfer licence) is the only document required to actually export the goods.

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

A licence may be revoked if:

- 1) there is a fundamental breach of licence conditions;
- 2) misleading information have been given on purpose when applying for a licence;
- 3) general conditions for granting a licence or the circumstances under which the licence was granted have fundamentally changed;
- 4) strong reason exists for revoking the licence, comparable to the ones above.

A licence may be revoked or suspended.

(Act on the export of defence materiel 282/2012, section 17)

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.

Defined in Act on the export of defence materiel 282/2012, Section 38:

Any person who on purpose or through negligence

- 1) fails to submit a report referred in Section 33, subsection 1 or
- 2) violates the provisions on accounting referred to in Section 33, subsection 2 or
- 3) shall be fined for committing an export violation of defence materiel.

Penalties for committing an export violation of defence materiel are imposed in Chapter 46, section 11 of the Criminal Code (39/1886).

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

The export licence is not required:

- 1) If the Defence Forces, the Frontier Guard, the Police or anyone authorised by them exports or transfers, on a temporary basis, defence materiel which is the property of or managed by the Defence Forces, the Frontier Guard or the Police;
- 2) If the Defence Forces, the Frontier Guard, the Police or anyone authorised by them exports or transfers defence materiel which has been imported, on a temporary basis, for an on-going project by the Defence Forces, the Frontier Guard or the Police;
- 3) If the said activities are based on an agreement (Finnish Treaty Series 65/1997) made between contracting states of the North Atlantic Treaty and other states in the Partnership for Peace on the status of their defence forces of a foreign state export from Finland, transfer or transport via Finland's territory defence materiel which is the property of or managed by them;
- 4) If the activity has been granted a permit under the Territorial Surveillance Act (755/2000)

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.

Licence is required. Procedure for granting a licence is equivalent to the normal procedure.

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

The supplier that has been granted an export, transfer, transit or brokerage licence shall submit a reliable report to the Ministry of Defence on the supply of items to the country of destination in accordance with licence conditions and a report every six months on the exported, transferred, transited or brokered defence materiel.

The supplier who has been granted a transfer licence and the user of a general transfer licence shall keep itemised and complete accounts of executed transfers (The Accounting Act 1336/1997).

The MoD collects and stores the information and maintains a database of all licences granted. Licences are public. The MoD publishes detailed statistics of all licences granted on an annual basis.

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

Individual export licences for exports outside European Economic Area.

A transfer licence can be:

- 1) a general transfer licence which is published, with its conditions, as an open licence to a number of suppliers established in Finland to carry out transfers of defence materiel to a category or categories of recipients located in the European Economic Area. At the moment Finland has published five types of general transfer licences.
- 2) a global transfer licence which is granted to carry out transfers of defence materiel to recipients in one or more Member States;
- 3) an individual transfer licence which is granted to carry out one transfer of defence materiel to one recipient in the European Economic Area.

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

Before starting the licence proceeding, the Ministry of Defence shall provide a statement, on request, on whether the intended export, transfer, transit or brokerage of defence materiel meet the requirements of granting a licence.

Regarding export aspirations to more sensitive countries or end-users, the applicants are often advised to make a request for a preliminary statement prior to applying for an actual export licence. This is to avoid situations where an already negotiated order is not granted the necessary licence. Preliminary Statement does not bind the decision maker in licence application phase if the circumstances have changed meanwhile.

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

There are altogether (all ministries and other state parties included) approximately 10 people involved in the licencing procedure.

The number of granted licences is around 300 ea out per year of which 100 ea are temporary exports. The Working Group for the exports of defence materiel handles approximately 60-80 applications per year. So most applications are transfer licences or export licences to countries with no foreign and security restraints.

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.

Information on Finland's export control system and statistics are available at www.defmin.fi.

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

Yes, they are available at MoD website and at www.finlex.fi.

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