



Vienna, 27 July 2017

The Permanent Delegation of Sweden to the OSCE presents its compliments to all OSCE Missions and Delegations and to the Conflict Prevention Centre and has the honour to present the following document:

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

The Permanent Delegation of Sweden to the OSCE avails itself of this opportunity to renew to all OSCE Missions and to the Conflict Prevention Centre the assurances of its highest consideration.

TO ALL OSCE MISSIONS AND DELEGATIONS
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

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.

In the area of conventional arms, controls are applied to finished products, components and technology, to the activity of manufacturing, and to foreign sales, transfers (including intangible transfers), tenders, loans, gifts or intermediation (brokering), the transfer of manufacturing rights, joint development activities with foreign partners, and the provision of technical assistance, technical support (for exported products), or military training abroad.

The Swedish Inspectorate of Strategic Products (ISP), is the designated national authority for the licensing of exports of military equipment and dual-use items covered by the basic legislation in this area. The ISP was established on 1 February 1996 by a Parliamentary decision that placed responsibility for licensing decisions and compliance control of the defence industry with the new independent authority, and Sweden's participation in multilateral cooperation in the transfer control area with the Swedish Ministry for Foreign Affairs (MFA). In this latter area, the licensing authority is tasked with supporting the MFA by providing expertise and information as required. The ISP works on the basis of Swedish Export Control Guidelines set by Government and endorsed by Parliament, and other assessment criteria resulting from Sweden's participation in international agreements (see question 3 below). The ISP is assisted in the interpretation of applicable guidelines by a 12-member Export Control Council comprising representatives of all Parties in Parliament and appointed by the Government, which retains overall political responsibility. The ISP is authorised by the Parliament's decision to refer cases of particular importance to the Government for decision.

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 Swedish legislation governing the export of conventional arms can be found in The Military Equipment Act (SFS 1992:1300) and The Military Equipment Ordinance (SFS 1992:1303). The change in status regarding the Agency has been given by several alterations to The Military Equipment Act (SFS 1996:68, 1997:689, 1998:399, 1998:1771, 1999:1161, 2000:1066, 2000:1248, 2005:915, 2008:885, 2010:1013, 2011:469, 2011:849) and to the Ordinance (SFS 1996:74, 1997:124, 1997:698, 1998:412, 1999:257, 1999:515, 2000:64, 2001:506, 2005:233,

¹ For details please visit our website, www.isp.se

2006:510, 2008:890, 2011:571, 2011:850, 2012:403, 2012:404, 2012:537, 2013:121, 2013:708, 2014:218, 2014:1301, 2015:125, 2016:290, 2016:845, 2017:507, 2017:516.) . EC Directive 2009/43/EC is adopted by change of the Act (SFS 2011:849) and change of Ordinance (SFS 2011:850).

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

Apart from its own national guidelines for the assessment of conventional arms exports, formulated by Government and endorsed by Parliament¹, Sweden also applies the European Union's Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment, the European Common List of Military Equipment, as well as the other EU Directives and Regulations in this area. Sweden has ratified the Arms Trade Treaty (ATT) and also applies the Treaty's Article 6 and 7 to the assessment of arms transfers. Sweden is a Participating State and founding member of the Wassenaar Arrangement. Sweden participates in the Wassenaar Arrangement and reports every six months to the Secretariat about transfers of Arms to Non-participating States. Sweden is also a Party to the Chemical Weapons Convention (CWC), which is mentioned here since chemical weapons and precursors are included in the list of equipment controlled under The Military Equipment Act (SFS 1992:1300). Since 2000 Sweden and United Kingdom, Germany, France, Italy and Spain has signed a Framework Agreement/Letter of Intent (FA/LoI) that has an export control annex.

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

- **Who is the issuing authority?**
- **What other authorities are involved and what is their function?**
- **Who deals with compliance?**

The process of assessing an export case starts long before a formal export license application is made. See further the answer to Question 16, where the authorities involved are also enumerated.

The Inspectorate for Strategic Products (ISP) has the responsibility of assessing and licensing controlled activities in the area of conventional arms (see also the answer to Question 1). The formal decision to approve or deny a license application is taken by the Director-General of the ISP. Should the Director-General consider a case to be of particular importance or associated with effects not covered by the applicable guidelines, a license application may be forwarded to the Swedish Government for decision, thus enabling Government to exercise its ultimate political responsibility for export control policy.

Compliance monitoring is one of the ISP's tasks. Compliance visits, usually together with representatives from the Customs Authority, are made annually to companies that have permits to manufacture military equipment and to brokers of military equipment (the frequency of visits may vary with the size of the company

¹ For details please visit the website, www.isp.se

and the level of activity). The ISP encourages defence industry companies to maintain internal compliance programs (ICPs).

Enforcement is a shared responsibility of the Licensing Authority, the Customs Authority, and other relevant legal authorities, applying penalties prescribed either directly in export control legislation or in general criminal law.

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.

As of 30 June 2012 the national control list has been modified to conform with the directive 2009/43/EC (the EU common military list). Nationally, Sweden also differentiates between Military Equipment for Combat Purposes (MEC) and Other Military Equipment (OME)¹. The two types of material are subject to slightly different guidelines. To assist industry, the Swedish version of the EU common military list provides an indication as to whether a given item belongs to the MEC or OME category.

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?**
- **Embargoed countries?**
- **Differentiation between destinations (e.g. is there any preferential treatment of (groups) of countries)?**

There are no lists of prohibited countries. Export assessments are made on a case-by-case basis, with an effort to apply the guidelines in a manner which is consistent over time.

The Government Bill underlying the present Act, submitted to Parliament in 1992, indicates that there are in principle no obstacles of a foreign policy nature regarding co-operation with- or export to the Nordic countries and the traditionally neutral states in Europe. Co-operation with any of these countries is considered to correspond with Swedish national security policy interests. Since Sweden's entry into the European Union (EU) the same principle is also applied to the Member States of the EU, as cooperation in the field of foreign policy is extensive with these countries.

Sweden applies the sanctions in the area of conventional arms exports that have been adopted by the UN, the EU and the OSCE. A up-to-date list of embargoed destinations is maintained on the licensing authority ISP's website.

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.

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Some form of end-use or end-user certificate is in principle required for all exports by the Swedish Guidelines. Different formats are used for different purposes. A Declaration by End User (DEU) or End Use Certificate (EUC) is used for the export of complete products and signed by the Government of the recipient country, stating that the equipment purchased will only be used by its national defense forces and will not be re-exported without Swedish Government consent (exports are only allowed to Governments, central Government Agencies, or Government-authorized recipients, such as defence industry companies). All formal DEUs or EUCs are verified by the Swedish Embassy accredited to the country of final destination. A different format is used for the export of components to be integrated into products assembled in a country of destination. Special formats are used for MANPADS exports, civilian firearms exported for hunting, sporting or collecting purposes, and the testing of Swedish-made products abroad.

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

Sweden does not have an import licensing system. Conventional arms that are transited or transshipped through Sweden are therefore not licensed upon entry into Swedish territory. Any transit or transshipment (including through free zones) is instead treated as a regular export when departing from Sweden, requiring a license granted by the licensing authority (ISP) in order to leave Swedish territory. Applicable guidelines are applied to such licensing decisions. Transit or transshipment through Sweden to another EU Member State is licensed in accordance with the simplified procedures set out in the EU Intra-Community Transfer (ICT) Directive 2009/43/EG.

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?

Companies wishing to export arms are obliged to have a basic permit to manufacture- or act as a broker for military equipment. Licensed companies have to submit quarterly marketing reports to the ISP within a month after the close of each quarter. Companies are also obliged to notify the Agency prior to submitting a legally binding tender (four weeks in advance), or in a situation in which tendering procedures do not apply, prior to entering into an agreement concerning the supply of military equipment or the granting of transfer of manufacturing rights or the manufacture or development of military equipment or of a method for the production of military equipment. The licensing authority has the right to halt such activities in an individual case. For the process of assessing potential exports on the basis of each company's marketing reports, see the answer to Question 4.

¹ For details please visit the website, www.isp.se

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

An export permit may be revoked, but this usually only occurs under extraordinary circumstances, e.g. the introduction of mandatory UN, EC and OSCE sanctions. The Swedish Guidelines allow for a different assessment of so-called follow-on deliveries, in order to strengthen security of support for previously exported systems. Unlike other types of decisions taken by the ISP, which take the form of specific exceptions to an outright prohibition of all controlled activities, the revocation of a license may be appealed in a court of 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.

A person or entity exporting military equipment without a permit from the Agency or inducing the Agency to grant a permit by supplying misleading information is liable to a fine, or in the case of a serious offence, to imprisonment for up to six years.

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

There are no circumstances in which the export of arms does not require an export license. Simplified procedures in the form of general or global licenses are however applied to intra-EU transfers of defined types of equipment or components.

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.

Temporary export permits are required for trials, demonstrations, exhibitions etc. A standard condition is that the company granted a temporary license must report to the Agency when the equipment has been returned to Sweden, except for material destroyed during trials. There is no time limit for such a return, but companies will normally, as part of their marketing information to the licensing authority, indicate the use of such equipment abroad, including its re-transfer between different markets. The pre-advice provided in this context will affect also this type of activity.

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

As of the 1st of April 2011 a special license document for military equipment entered into force, similar to the license document used for dual-use items (EU standard).

¹ For details please visit the website, www.isp.se

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

Two types of license are issued (individual and global) which, however, may include different conditions in terms of value-limitation, time-limitation etc. From 30 June 2012 general licenses were also introduced as a result of the adoption of directive 2009/43/EC (the so-called ICT Directive governing intra-community transfers).

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

A formal decision to permit an export transaction is only taken at the time of actual export. Although the marketing of military equipment abroad is not subject to approval, the process of assessing a potential export starts with industry sharing its marketing plans with the national licensing authority (ISP) and receiving verbal preliminary advice based on a case-law approach to the application of relevant Guidelines. If a particular export case is not covered by an existing interpretation of the Guidelines, the Director-General will as a rule consult with an advisory body - the Export Control Council comprising representatives of all parties in Parliament - before providing non-binding but written preliminary advice as to whether or not an export license can be expected for an intended export (based on conditions at the time of assessment). To comply with the National Guidelines, which stress the importance of both defence policy and foreign policy aspects of an assessment process, the Ministry for Foreign Affairs and the Ministry of Defence both provide input to the export cases reviewed by the advisory body.

If marketing efforts result in a requirement to provide a legally binding tender, the ISP must be notified and, based on an updated assessment of the original export case, has the right to stop such a tender from being provided to the prospective customer. The formal application for an export license (which is necessary only when a binding tender has been accepted and a contract is signed) is directed to the licensing authority ISP (further detail in the answer to question 4).

The licensing authority will advise industry as early as possible if circumstances surrounding a particular export case have changed to such an extent that the original assessment underlying a positive preliminary advice no longer holds. As the preliminary advice provided is non-binding, the exporter has to assume the risk of such negative developments.

This system of licensing, focused on early assessment, almost never results in the denial of a formal export license application. Negative preliminary advice provided at an early stage of marketing it is not considered to constitute a denial, as there is no real certainty that marketing efforts would have met with success. Not allowing industry to submit a formal binding tender is however considered to be a denial since it takes place at a later stage of the export process, and such a decision is used as the basis for a denial notification in appropriate fora.

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

Around 1.100 applications for export licenses are processed annually, administered by 2 persons, who also have other tasks such as tender notifications, statistics etc. They are supported by 3 experts in the process.

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.

An English language translation of the Swedish Government's annual report to Parliament on exports of military equipment for the preceding calendar year is published annually on the Agency's website, www.isp.se.

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

The Swedish national guidelines are included in the Government's annual report. References to other applicable guidelines are made in the body of the text, describing Sweden's international obligations in the area.

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