

Act on the Control of Exports of Dual-Use Goods

(562/1996; amendments up to 884/2001 included)

Section 1 - *Scope of application*

Besides the provisions of the Council Regulation (EC) No 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology and the Council Joint Action concerning the control of technical assistance related to certain military end-uses (2000/401/CFSP) adopted by the Council on the basis of Article 14 of the Treaty on the European Union, the provisions of this Act regarding the restriction of exports and Community deliveries of dual-use goods (exports control) and what is enacted or provided under this Act shall be observed. (891/2000)

This Act does not apply to exports of such dual-use goods the export control of which is governed by some other Act or Decree or Decision issued pursuant to some other Act.

Section 2 - *Dual-use goods* (891/2000)

For the purposes of this Act, dual-use goods refers to products, technologies, services or other goods which besides their normal use and application for civil purposes can be used for the construction of weapons of mass destruction or missiles capable of delivering such weapons or for the furtherance of general military potential.

Section 3 – *Authorisation* (891/2000)

Exports and Community deliveries of dual-use goods comprised by export control under the Council Regulation or this Act are subject to authorisation of the European Community or the Ministry of Trade and Industry. An authorisation by the Ministry of Trade and Industry can be denied:

- (1) if the fulfilment of international treaties, commitments or obligations binding on Finland calls for it;
- (2) if the promotion of the objectives of Finnish foreign policy or security policy or Finnish interests concerning national security and work done for the maintenance of international security call for it;
- (3) if the ensuring of free access to such goods of foreign origin that are comprised by strategic export control or the fulfilment of the conditions of such access call for it;
- (4) if the product or service was imported to Finland under cover of a restriction or ban on re-export; or
- (5) if considerations related to intended end-use and the risk of diversion call for it.

An export authorisation shall be produced to the customs authorities even in respect of Community deliveries referred to in Article 21 of the Council Regulation.

The need to obtain authorisation in connection with exports is furthermore governed by the provisions of section 4.

Section 4 - Authorisation of export and Community deliveries of products not included in the List of Dual-Use Goods (891/2000)

When products, services or other goods not mentioned on the List of Dual-Use Goods issued under this Act are to be exported from the Community or delivered to another Member State of the European Union, an export authorisation shall be presented in connection with the export or Community delivery if the exporter has been informed by the Ministry of Trade and Industry that the goods in question are or can be intended, in their entirety or in part, for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or in connection with the development, production, maintenance or storage of missiles capable of delivering such weapons covered by non-proliferation arrangements.

An authorisation shall also be required for the export of dual-use goods not mentioned in the List of Dual-Use Goods if the purchasing country or country of destination is subject to an arms embargo enforced by a common position or joint action adopted by the Council or a decision of the OSCE or an arms embargo imposed by a binding resolution of the Security Council of the United Nations and if the exporter has been informed by the Ministry of Trade and Industry that the goods in question are or may be intended, in their entirety or in part, for a military end-use. For the purposes of this subsection, 'military end-use' means:

- (1) incorporation into defence materiel listed in the Act on the Export and Transit of Defence Materiel (187/1995);
- (2) use of production-, test- or analytical equipment and components thereof, for the development, production or maintenance of defence materiel listed in the above-mentioned list;
- (3) use of unfinished products at a plant for the production of defence materiel listed in the above-mentioned list.

An authorisation shall also be required for the export of dual-use goods not mentioned in the List of Dual-Use Goods if the exporter has been informed by the Ministry of Trade and Industry that the goods in question are or may be intended, in their entirety or in part, for use as parts or components of such defence materiel listed in the national list of defence materiel that has been exported from the Finnish territory without authorisation or in violation of an authorisation provided by Finnish legislation.

If the exporter is aware or has reason to believe that the goods in question are intended, in their entirety or in part, for one of the purposes referred to in the preceding first, second and third paragraphs, he shall notify the Ministry of Trade and Industry, which will decide whether or not an export authorisation is needed.

Section 5 - Annulment of an authorisation or modification of its terms (891/2000)

The Ministry of Trade and Industry has the right to annul an export authorisation or to modify the terms of it if any information provided in the application has been found incorrect or if any circumstances have changed after the authorisation was granted so that international commitments or obligations binding on Finland call for such a measure.

Section 6 - *The Advisory Board on Export Controls*

For the preparation of matters of basic importance in the field of export control there is an Advisory Board on Export Controls appointed by the Government.

Further provisions on the duties of the Board, the number of its members and how the Board is appointed shall be issued by Decree.

Section 7 - *Right of inspection and access to information*

The Ministry of Trade and Industry, customs authorities and taxation authorities have, notwithstanding the secrecy regulations otherwise binding on them, the right to provide each other with any such information about exporters and exported dual-use goods that the authorities need in order to be able to carry out their task of control. Such information may be handed over to the control authorities of the European Community.

An exporter, a financial institution or anyone else who has information needed for the control of exports is, at request, obligated to hand over their books, correspondence and any other information needed for the conduct of control to the authorities referred to in the preceding first subsection.

Persons designated by the control authorities shall have the right during the exercise of the control of compliance with the terms of export, to examine on exporters' premises goods and the manufacture of goods to be exported as well as to inspect the exporters' books and correspondence. If the inspection takes place on the premises of the person or body whose activities are being examined, any facilities and assistants shall be placed according as necessary at the examining personnel's disposal. In so far as domestic peace is involved, an examination is allowed only if there is good cause to suspect that the person or body in question is guilty of punishable action against this Act.

What in the preceding first, second and third subsections is said about exporters shall also apply to Community deliverers.

Information acquired or otherwise received by virtue of this section shall not be abused or disclosed to any third party.

Section 8 - *Control of exports and Community deliveries* (891/2000)

Exports and Community deliveries of dual-use goods shall be controlled by the Customs.

Section 9 - *Penalties*

Penalties for actual or attempted intentional violations of any provisions contained in or issued under sections 3 and 4 of this Act are imposed in chapter 46, sections 1 - 3 of the Finnish Penal Code (39/1889). (884/2001)

Any person who out of inadvertence fails to meet his notification obligation under section 4(4), shall be liable, for *omission to notify export of dual-use goods*, to fines or to imprisonment not exceeding six months. (891/200)

An authority can refrain from proceeding to action against a suspect, if the act, with regard to its negative impact and the guilt of the culprit as apparent from the act, can be judged insignificant as a whole and if public interest does not require proceedings to be instituted.

Section 10 - *Further provisions and orders* (891/200)

Further provisions on the implementation of this Act may be given by Decree, when necessary.

The range of goods listed in Annex I to the Council Regulation may be extended by a Government Decree.

The Ministry concerned may issue further orders concerning the authorisation procedure and the particulars to be appended to the authorisation application and impose conditions on the use of the authorisation.

Section 11 – *Entry into force* (891/2000)

This Act enters into force on 28 September 2000.

This Act repeals the Decree of 23 August 1996 on the control of exports of dual-use goods (645/1996) as later amended and the Decision of the Ministry of Trade and Industry on the export licensing of dual-use products (54/1997).

In the case of authorisation applications filed before the entry into force of this Act, the statutes in force at the time of filing the application shall apply.