

LAW OF GEORGIA

on Export Control of Armaments, Military Equipment and Dual-Use Products

This Law establishes the principles and procedures for implementation of export control of arms, military technology, raw materials, materials, equipment, technologies, scientific-technical information, and services connected with their production and use, in the interests of both the international and national security of Georgia and for strengthening the regime for nonproliferation of weapons of mass destruction.

CHAPTER I

General Regulations

Article 1. Basic Concepts Used in this Law

For the purposes of this Law:

- A) "*Products*" means goods, technologies, equipment, labor, services, and information subject to export control of this Law;
- B) "*Dual-Use Products*" means products which are not intended for use in military purposes but which can be used for the creation of nuclear, chemical, and other types of weapons of mass destruction and their means of delivery;
- C) "*List of products subject to export control*" means control lists, lists of arms, military technologies, and dual use products, including nuclear and specialized nonnuclear materials, equipment, technology, scientific-technical information, and services, which are used or can be used for the creation of weapons of mass destruction and means of their delivery;
- D) "*Rights on results of intellectual activity*" means copyright on scientific work, computer programs and databases; industrial proprietary rights; invention rights, rights on products, rights on products manufactured or belonging to physical and legal persons, services carried out by them, including industrial samples, "know-how" connected with arms, military technology, dual-use products, specialized equipment and technology for creation of weapons of mass destruction;
- E) "*Export*" means exporting of products from the customs territory of Georgia with the purpose of permanent location or use outside this territory; granting foreign persons services and rights on the results of intellectual activity connected with armaments and military equipment and dual-use products;
- F) "*Re-export*" means exporting from the customs territory of Georgia of products created outside its boundaries; or any export of products created in Georgia from the customs territory of another third state;
- G) "*Transit*" means transfer/movement of products under customs control through the customs territory of Georgia;

H) "*Exporter*" means legal and physical person of Georgia, as well as foreign legal and physical person, carrying out the exporting of products from Georgia;

I) "*Nuclear and specialized non-nuclear materials*" means materials defined as such in accordance with the requirements of the international regime for nonproliferation of nuclear weapons;

J) "*Export control*" means the totality of measures aimed at the implementation, through State agencies, of procedures established in this Law, other laws and other legal instruments of Georgia for the export, re-export, and transit of products subject to export control and at avoiding, exposing and preventing violations of these procedures;

K) "*Services*" means activity directed toward satisfying the requirements of other persons.

Article 2. Principles for the Implementation of Export Control

The main principles for the implementation of export control in Georgia are:

- A) Observance of international obligations undertaken by Georgia on nonproliferation of weapons of mass destruction and other types of weapons;
- B) The priority of political interests in the implementation of export control;
- C) Verification of the end use of products subject to export control in the framework of the nonproliferation regime;
- D) Accessibility of information on export control legislation.

Article 3. Georgian Legislation on Export Control

Georgian export control legislation is founded on the Constitution of Georgia, this Law, and international treaties and agreements concluded by Georgia.

CHAPTER II Products Subject to Export Control

Article 4. Products Subject to Export Control

1. The following are products subject to export control in correspondence with the requirements and conditions of this law:

- A) Conventional armament and technologies, raw materials, materials, specialized equipment and technologies and services connected with their production;
- B) Nuclear materials, technologies, equipment, facilities, specialized nonnuclear materials, dual-use products, facilities, technologies, radioactive

sources and isotope products, control lists of which are established by international nonproliferation regimes;

C) Dual-use chemicals and technologies which can be used in the creation of chemical weapons, according to control lists established by international nonproliferation regimes;

D) Disease agents, their genetically altered forms, and fragments of genetical material which can be used for the creation of bacteriological (biological) and toxin weapons, control lists of which are established by international nonproliferation regimes;

E) Equipment, materials, and technologies applicable in the creation of missiles, control lists of which are defined by international nonproliferation regimes;

F) Scientific-technical information, services, and results of intellectual property connected with products of military purpose;

G) Other types of products according to the decision of the President of Georgia.

2. Products indicated in this Article subject to export control regardless of their owners, locations, and time of origin.

CHAPTER III

The Authority of State Government Bodies in the Export Control Field

Article 5. The Authority of the Parliament of Georgia

The Parliament of Georgia:

A) Determines the state policy in the field of export control;

B) Creates and develops the system of export control;

C) Presents to the Standing Interagency Commission on Military-Technical Issues of the National Security Council of Georgia the list of those states with respect to which the restrictions on the export of the products subject to export control through the customs territory of Georgia can be undertaken;

D) Exercises legislative regulation of export control.

Article 6. The Authority of the President of Georgia

The President of Georgia:

A) Establishes normative acts for the regulation and implementation of export control;

B) By the submission of the Standing Interagency Commission on Military-Technical Issues of the National Security Council of Georgia confirms the list of strategic military products and services subject to export control;

C) Manages the activity of the Executive Bodies of Georgia implementing export control;

D) Defines the authority of the Executive Bodies of Georgia in the field of export control;

- E) In case of need introduces quantitative limits on the export of products subject to export control;
- F) By the submission of the Standing Interagency Commission on Military-Technical Issues of the National Security Council of Georgia issues the confirmation on the export of strategic military products and services related to it.
- G) By the submission of the Standing Interagency Commission on Military-Technical Issues of the National Security Council of Georgia issues the confirmation on the transit of specialized cargo.

Article 7. The Authority of Executive Bodies of Georgia

1. Executive Bodies of Georgia:

- A) Ensure direct implementation of State policy on export control;
- B) Develop and apply measures in connection with the implementation of the export control system, the unification of regulations and procedures, and carry out their correction;
- C) In cooperation with the Standing Interagency Commission on Military-Technical Issues of the National Security Council of Georgia define and submit for confirmation to the President of Georgia control lists and lists of products subject to export control;
- D) Control the export, re-export, and transit of products subject to export control through authorized bodies;
- E) Provide expert review of demands for export;
- F) If necessary, present to applicants conclusions on belonging their exported products to the appropriate category subject to export control;
- G) Prevent illegal transfer of products subject to export control through the customs territory of Georgia.

2. Taking into account the list presented by the Parliament of Georgia, the Standing Interagency Commission on Military-Technical Issues of the National Security Council of Georgia submits for confirmation to the President of Georgia the list of those states with respect to which the restrictions on the export of the products subject to export control through the customs territory of Georgia can be undertaken.

CHAPTER IV Implementation of Export Control

Article 8. Export Control and Procedures for its Implementation

1. Export of products subject to export control will be carried in accordance with Georgian laws and Georgia's international obligations with respect to nonproliferation of weapons of mass destruction and other types of weapons and technologies for their creation, and also other international treaties ratified by Georgia.

2. Export of products subject to export control will be accomplished through licenses issued by the authority of executive body according to decisions of the President of Georgia.

3. The authorized body issues a license according to the recommendation of the Standing Interagency Commission on Military- Technical Issues of the National Security Council of Georgia and presents to this body copies of:

- A) A statement of industrial subject coordinated with corresponding executive body to which the President of Georgia assigns export control functions;
- B) The contract and an import certificate from the end user, issued on the authority of a state agency and acknowledging the recipient state's obligation to use the imported product only for that state's needs, and acknowledging that the item must not be re-exported or transferred to a third country without consent on the part of Georgia.

4. Originals of licenses and contracts with the notation of the authorized state body are presented to the manager at the customs agency.

5. For export of nuclear and specialized non-nuclear materials and dual use products, among the contract conditions there must be provision for ensuring access by authorized Georgian Government agencies to verify their end use.

6. Export of nuclear and specialized non-nuclear materials, dual use products, and technologies, facilities, and equipment for their creation to non-nuclear weapon states can occur only if there exist assurances on the part of these countries that the items of export received by them, and also any nuclear or specialized non-nuclear materials, dual use products, facilities, or equipment produced from the imported items or resulting from their use will:

- A) Not be used for the production of nuclear weapons and other nuclear explosive devices or for any military purpose;
- B) Be under safeguards of the International Atomic Energy Agency (IAEA) for the course of the entire period of their actual use, in accordance with a safeguards agreement between the recipient state and the IAEA;
- C) Be protected by physical protection measures at a level recommended by the IAEA; and
- D) Be re-exported (exported) or transferred out of the jurisdiction of the recipient state only under conditions stipulated in subparagraphes (a), (b), and (c). In the case of uranium enriched above 20%, plutonium, or heavy water, re-exports or transfer of ownership will occur only if there is written agreement by the authorized atomic energy agency of Georgia.

7. Responsibility for authenticating information presented for receipt of a license is borne by the legal person applying for receipt of the license.

8. The authorized state body issuing a license has the right to cancel or suspend its validity in the case of a violation by the exporter of regulations for the conduct of export operations.

9. Authorized export control bodies may, when necessary, conduct examinations of products subject to export control.

10. In certain cases, export of products subject to export control can occur without the taking of a special decision by the President of Georgia on the basis of contract and license issued by established procedures of authorized agencies of Georgia. Such circumstances include: export by Georgian enterprises of specialized finished items for arms military equipment for ensuring the production and repair of military products manufactured under interplant cooperation with enterprises in foreign countries; and also other cases defined by Georgian legislative normative acts;

11. Transfer of Georgia's arms, military equipment, training and military auxiliary stock as well as their samples for purpose of repair through the customs territory of Georgia is implemented according to the decision of authorized body of the executive branch of Georgia; this decision is presented to the Standing Interagency Commission on Military-Technical Issues of the National Security Council of Georgia.

12. Control over the exit of products subject to export control through the customs of Georgia is carried out by the customs agency of Georgia.

Article 9. Re-Export and Transit

1. Re-export of products subject to export control is carried out under the procedures established by this Law for exports.

2. Re-export of products originating in Georgia and subject to export control occurs by permission of the executive body for export control.

3. Re-export of products that have been brought into the customs territory of Georgia are subject to export control and may occur without permission of the competent state agency of the country of origin.

4. Transit of products subject to export control occurs by permission of the authorized executive bodies of Georgia. The Standing Interagency Commission on Military-Technical Issues of the National Security Council of Georgia should be immediately informed about issuing the permission.

Article 10. Participation of Georgia in International Sanctions Connected with Export Control

1. Georgia's participation in international sanctions, connected with export control, with respect to one state or a series of states, and the bringing into force of these sanctions, is determined by the legislation of Georgia on the basis of decisions of the United Nations or other international organizations.

2. In certain individual cases Georgia may apply sanctions provided by the first point of this article through a unilateral procedure.

3. In case of the use of economic sanctions the procedure of recovering of the exporters losses is determined in accordance with Georgian legislation.

Article 11. Limitation of Exports

1. Georgia has the right to introduce limitations on the export of products subject to export control, right up to the point of embargo, in relation to foreign states in the case of violation by them of obligations they have undertaken with respect to Georgia, and also according to decisions of international organizations of which Georgia is a member.
2. By the submission of the Standing Interagency Commission on Military-Technical Issues of the National Security Council of Georgia the President of Georgia, stemming from interests in ensuring national security and fulfilling its international obligations, can determine a list of states with respect to which may be introduced limits on the export of commodities subject to export control from the customs territory of Georgia.

Article 12. Protection of Information

1. Georgian executive bodies and officials authorized to carry out export control are required to observe the confidentiality of information received by them from exporters of products.
2. The provisions of the first part of this article do not extend to the case when the regime of confidentiality of information could badly affect national security interests of Georgia.

Article 13. Participation in the Activities of International Organizations

Georgia participates in the activities of those international organizations connected with the implementation and strengthening of regimes of nonproliferation of weapons of mass distraction, which operate with respect to requirements of the United Nations Organization and other organizations in the field of export control.

Article 14. Responsibility for the Violation of Georgian Export Control Legislation

Responsibility for the violation of the requirements of this Law is determined in accordance with Georgian legislation.

CHAPTER V

Transitory Provisions

Article 15. Normative Acts, Necessary for Execution of the Law

Before the execution of this Law the following normative acts shall be adopted:

- A) The Law of Georgia about the implementation of amendments in Criminal Code of Georgia;
- B) The Law of Georgia about the implementation of amendments in Procedural Criminal Code of Georgia;
- C) The Law of Georgia about the implementation of amendments in the Code of Administrative Crime of Georgia;
- D) The Law of Georgia about implementation of amendments in the Law of Georgia on fire arms;
- E) Decree of the President of Georgia about the list of the products subject to export control;

CHAPTER VI

Final Provision

Article 16. The Execution of the Law

This Law shall be executed from the first of September 1998.

President of Georgia
Eduard Shevardnadze
Tbilisi, April 28, 1998