

Ref: GA Res 64/40

Norway 2010

**Appendix III****Guidelines of 28 February 1992 for the Ministry of Foreign Affairs when dealing with applications concerning the export of weapons and military materiel, as well as technology and services for military purposes<sup>1</sup>***I. Purpose and scope*

1. These guidelines apply to the procedures to be followed by the Ministry of Foreign Affairs when dealing with applications for exporting arms and military equipment, as well as technology and services which may be used for military purposes.

The licensing rules do not apply to the export of insignificant quantities of goods which are not intended for military or police use.

The export control system is based on the following excerpts from the Government's statement of 11 March 1959 and the Storting's decision of the same date:

The Government's statement:

"In making the decision, importance shall be attached to foreign and domestic policy assessments, and the primary consideration should be that Norway will not permit the sale of arms or munitions to areas where there is a war or the threat of war, or to countries where there is a civil war."

The Storting's decision:

"The Storting takes note of the statement made by the Prime Minister on behalf of the Government. The Storting declares most emphatically that arms and munitions may be exported from Norway only after a careful assessment of the foreign and domestic policy situation in the area in question. In the Storting's opinion, this assessment must be conclusive of the question whether such goods are to be exported."

In 1997, the Storting unanimously endorsed a clarification made stating that "an assessment by the Ministry of Foreign Affairs should include consideration of a number of political issues, including issues relating to democratic rights and respect for fundamental human rights."

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<sup>1</sup> Drawn up pursuant to Act No. 93 of 18 December 1987 relating to control of the export of strategic goods, services, technology, etc., and Regulations No. 51 of 10 January 1989 relating to the implementation of control of the export of strategic goods, services and technology, laid down by the Ministry of Foreign Affairs.

Ref: GA Res 64/40

Norway 2010

The Government considers the Storting's decision to be mandatory, and the export control system shall ensure that it is complied with.

2. As regards implementation of the export control system, Act No. 93 of 18 December 1987 relating to control of the export of strategic goods, services, technology, etc. (hereinafter referred to as the Export Control Act), and Regulations No. 51 of 10 January 1989 relating to the implementation of control of the export of strategic goods, services and technology (hereinafter referred to as the Regulations) are applicable.

These guidelines are intended to be advisory and establish the principles the Ministry of Foreign Affairs are to apply when dealing with arms export matters pursuant to the Export Control Act and the Regulations. Any consideration of applications for an export licence in terms of section 1 of the Regulations shall be based on these guidelines, and reference shall be made to List I in the Ministry of Foreign Affairs' Official Notification on Export Control (Weapons, ammunition and other military equipment).

3. Owing to the advances in military technology since 1959, the considerations underlying the Government's statement and the Storting's decision can only be pursued by means of an export control system which extends beyond what is directly implied by the wording of the statement and the decision. These guidelines are intended to ensure that this is the case. Thus, they apply to the consideration of applications for export licences not only for arms and munitions, but also for other equipment designed or modified for military purposes (see chap. V below), for parts and components (see chap. VII), and for technology and services (see chap. VI and VIII, respectively).
4. When dealing with licence applications, it is essential to bear in mind that in many cases the licensing obligation may exceed the power conferred by section 1 of the Export Control Act to prohibit export. Thus, before refusing a licence application, it must be substantiated that the statutory conditions have been fulfilled. It is particularly important that such an assessment of the statutory power be made when dealing with licence applications for the export of goods of limited military significance, the export of parts and components, and the export of technology and services.

## *II. Groups of countries and categories of goods*

1. In order to facilitate the processing of licence applications, the following groups of countries are to be used:

Group 1 comprises the Nordic countries and member countries of NATO. The group also includes other countries which may be approved by the Ministry as recipients of weapons.

Ref: GA Res 64/40

Norway 2010

Group 2 comprises countries located in an area where there is a war or the threat of war, countries where there is a civil war, countries to which, on the basis of a careful assessment of the foreign and domestic policy situation in the area, it is inadvisable to export arms and military equipment, or countries affected by a sanction adopted by the UN Security Council.

Group 3 comprises countries which do not belong to group 1 or 2 to which Norway does not sell weapons and ammunition, but which may receive other equipment that is designed or modified for military purposes.

2. The following categories of goods are to be introduced:

Category A: Weapons, ammunition and certain types of military equipment

This category includes all kinds of weapons and ammunition.

It also includes other equipment that could be used effectively to influence the military balance of power beyond the immediate vicinity, including equipment for maritime surveillance and electronic measures against satellite-borne systems.

Category B: Other equipment designed or modified for military purposes.

This category includes other equipment designed or modified for military purposes which is specified in List I in the Ministry of Foreign Affairs' Official Notification on Export Control (Weapons, ammunition and other military equipment) which does not have such properties or areas of application as specified for category A.

### *III. Cooperation and development projects*

The export of goods, services and technology to countries with which Norway has concluded cooperation agreements shall be permitted if such export is effected in connection with a project that has been approved by the Norwegian authorities and whose primary objective is to safeguard the defence needs of the country in question. If the finished product is not designated as Norwegian, it may be re-exported in accordance with the export control rules of the country in question.

### *IV. Multinational products*

In cooperative projects which are of such a nature that the identity of the finished product appears to be multinational, the export control rules of the country of production can be applied to exports to third countries. In connection with the approval of the cooperative project, the conditions for the export of the finished product to a third country will be agreed by the authorities of the countries involved.

Ref: GA Res 64/40

Norway 2010

*V. The export of goods having independent functions*

1. Export licence applications are to be dealt with regardless of whether the goods are to be exported directly or indirectly to the recipient country.
2. Products in category A may not be exported to any end-users other than government authorities. The primary consideration should be that products belonging to category A or category B may not be exported to countries in group 2.
3.
  - a) An export licence will normally be granted for the export of goods in category A if the customer is, or is acting on behalf of, the defence authorities of a country belonging to group 1. This must be substantiated by documentation.  
  
A licence to export goods in this category to countries other than those belonging to group 1 must be dealt with by the Government and the granting of such a licence requires that an officially confirmed end-user statement containing a re-export clause be submitted, i.e. a statement to the effect that re-export must not take place without the approval of the Norwegian authorities.
  - b) A licence to export goods in category B to countries in groups 1 and 3 shall be granted.

Documentation substantiating the end-user shall be required.

*VI. The export of technology, including production rights and all forms of technical information*

1. For the purpose of these guidelines, technology means insight enabling one to develop, produce, maintain or use goods. The transfer of production rights is the most common form of technology export from Norway.
2. Applications for transferring production rights shall be dealt with in such a way as to ensure that the purpose of the transfer is not to circumvent Norwegian export controls.
3. Permission to export technology in accordance with cooperation agreements with enterprises or the authorities of other countries shall be granted after the agreement has been approved by the Norwegian authorities.
4. When dealing with applications for exports which are not part of an officially approved process of cooperation, the category to which the finished product will belong shall be ascertained.
  - a) If it is a matter of production rights for goods in category A, permission may only be granted for transfers to countries belonging to group 1 and in

Ref: GA Res 64/40

Norway 2010

accordance with principles corresponding to those which otherwise apply to the export of goods in this category.

The permission is subject to the condition that the Norwegian seller of the production rights is also required to incorporate into the terms of the contract a reservation to the effect that any sublicensing of production rights will be submitted to the Norwegian authorities for approval. The Ministry of Foreign Affairs shall deal with applications for sublicensing in the same way as direct transfers of production rights from Norway.

- b) Permission will generally be granted to transfer production rights for goods in category B to countries in groups 1 and 3. In such cases, the Ministry of Foreign Affairs' requirements as to documentation and terms of contract must depend on a concrete assessment in which account is taken of the properties of the product, the export policy of the country of production, and any detrimental effects should the product be exported to an undesirable recipient.
5. Detailed guidelines may not be drawn up for other types of technology transfers. The assessment of the export licence application will depend on the degree to which the transfer of technology is connected with a product's military function. The more this is so, the more important it is to base the assessment of an application on the guidelines for the export of finished products in a corresponding category.

#### *VII. The export of parts and components*

1. For the purpose of these guidelines, the export of parts and components means the export of goods which have no independent function.
2. When parts and components are exported in accordance with cooperation agreements with enterprises or the authorities of another country, an export licence shall be granted when the agreement has been approved by the Norwegian authorities. It is then a prerequisite that the Norwegian parts or components be coordinated with parts from other sources of supply, and that the finished product not be designated as Norwegian.

In such cases, the documentation substantiating the end-use of the finished product may be dispensed with.

3. As regards the export of parts and components for projects which have not been approved officially and where the export is based on technology available on the market and on the basis of the customer's product specification, a licence shall generally be granted to countries which do not belong to group 2 if the finished product is not designated as Norwegian. Documentation concerning the end-use of the finished product shall not be required.

Ref: GA Res 64/40

Norway 2010

4. An application for a licence to export parts or components of a type other than that mentioned in clauses 2 and 3 shall be dealt with in the same way as in the case of the export of the finished product. However, a departure from this rule may be authorized by the provision in chap. I, clause 1.

#### *VIII. Provision of services*

1. In order for permission to be required pursuant to section 1, litra e and g, of the Regulations, the provision of services may, but does not necessarily have to be, connected with the development, production, maintenance or use of a product. This also applies to military planning.
2. As regards the provision of services connected with military equipment belonging to categories A and B, and which are essential to the development, production, maintenance or use of such equipment, permission for providing such services shall be granted on the basis of conditions corresponding to those applicable to an export licence for the product itself. If the service is more remotely connected with the product, a less stringent practice may be considered.
3. As regards services that are not specifically connected with particular goods, but that concern military planning, permission shall generally be granted to countries in group 1 but not to countries in group 2. The granting of licences to other countries must be considered in each individual case on the basis of the anticipated military and any possible political effects, and must be approved by the Ministry.

#### *IX. Procedures*

1. The Ministry of Foreign Affairs should make a final decision on applications dealt with according to these guidelines at the latest within twelve weeks in the case of products in category A, and at the latest within six weeks in the case of other applications.
2. If necessary when assessing technical aspects and areas of application for products, technology, technical information or services, the Ministry of Defence as represented by the Norwegian Defence Research Establishment may be consulted.
3. If an export licence application concerns important defence matters or cooperation with other countries concerning equipment, the opinion of the Ministry of Defence shall be obtained.
4. If an export application concerns important Norwegian commercial interests, the opinion of the Ministry of Industry shall be obtained.

Ref: GA Res 64/40

Norway 2010

**Appendix IV****Control List I - Weapons, ammunition and other military materiel**

1. Small arms etc. for military or other use:  
Revolvers, pistols, rifles, machine guns, sub-machine guns, harpoon guns, whaling guns, other firearms or similar equipment which release an explosive charge; bayonets.  
  
Note  
Item 1 does not cover smooth bore shot guns and antique hand-held guns from before 1890 and permanently deactivated hand-held fire arms.
2. Artillery, etc.
  - a. Artillery pieces, including guns and mortars, as well as grenade throwers and anti-tank weapons, including anti-tank rifles, grenade rifles, anti-tank rounds and armour-piercing ammunition.
  - b. Flame-throwers.
3. Missile systems, bombs, rockets, torpedoes, land and naval mines, hand grenades.
4. Fire control equipment, search equipment, equipment for handling etc.:
  - a. Equipment specially designed or modified for fire control, handling, control, arming, launching, guiding, detection, location, removal, sweeping, destruction or disarming materiel as mentioned in items 2 and 3.
  - b. Sonars and sonar equipment, including sonobuoys, specially designed or modified for military purposes.
5. ABC weapons etc.:
  - a. Radioactive, biological and chemical weapons.
  - b. Equipment specially designed or modified for the deployment, launching, dispersal and destruction of weapons listed in item 5a.
  - c. Equipment specially designed or modified for the detection and destruction of weapons listed in item 5a.
  - d. Equipment specially designed or modified for the decontamination of equipment exposed for a weapons listed in item 5a.
  - e. Tear gas and other substances that might cause irritation and temporarily reduced physical ability.
6. Ammunition, explosives, etc.:
  - a. Ammunition for products listed in items 1 and 2.
  - b. Magazines and equipment for the introduction of ammunition.
  - c. Explosives, gunpowder and primers specially designed or modified for materiel in items 3, 5 and 6a.
  - d. Detonating charges specially designed or modified for military use and

Ref: GA Res 64/40

Norway 2010

- discharge devices, including percussion caps, for such materiel.
- e. Propellants for missiles, rockets and torpedoes.
- f. Pyrotechnical articles and smoke-generating equipment specially designed or modified for military use.
7. Electronic equipment etc., not mentioned in item 4:
- a. Communication equipment specially designed or modified for military use.
- b. Electronic warfare equipment, including anti-radar systems and radar detectors.
- c. Navigation equipment, range-finders, position and direction-indicators, specially designed or modified for military use.
- d. Laser, particle ray or microwave weapons.
- e. Other electronic equipment, specially designed or modified for military use.
8. Ships, etc.:
- a. Ships, boats and other vessels specially designed or modified for military use.
- b. Submarine nets and torpedo nets.
- c. Pontoon bridges
- d. Diving equipment specially designed for military purposes
9. Aircraft etc.
- a. Aircraft and spacecraft specially designed or modified for military use.
- b. Parachutes specially designed or modified for military purposes
10. Tracked vehicles, amphibious vehicles and other vehicles specially designed or modified for military use, *except* for non-armoured and unarmed vehicles designed for use on roads; tanks, military recovery vehicles.
11. Protective equipment and rescue equipment etc., specially designed or modified for military use: g-suits, pressure suits, insulation suits, protective clothing, bullet-proof vests, helmets, oxygen equipment, breathing equipment, parachutes, catapults and other launching equipment.
12. Hangars, air raid shelters, and other buildings specially designed or modified for military use.
13. Camouflage equipment.
14. Photographic equipment:
- a. Cameras specially designed or modified for military use.
- b. Equipment for interpreting air photographs, specially designed or



Ref: GA Res 64/40

Norway 2010

modified for military use.

15. Quartermaster supplies specially designed or modified for military use.
16. Materiel specially designed or modified for instruction in the use or maintenance of products listed in items 1 to 15 above.
17. Components, parts, subsystems and auxiliary equipment specially designed or modified for products listed in items 1 to 16 above.
18. Software:
  - a. Software specially designed or modified to be used in products listed in items 1 to 17 above.
  - b. Software specially designed or modified for the construction, production, maintenance or operation of products listed in items 1 to 17 above.
  - c. Software not covered by 18.a or 18.b above, specially designed or modified for military purposes.
19. Materials, machines, tools etc.:
  - a. Materials specially designed or modified for military use.
  - b. Machines, tools and equipment specially designed or modified for the construction, production, maintenance or control of products listed in items 1 to 18 above.
20. Technology specially connected with products listed in items 1 to 19 above.

Note: Control List I does not comprise dummies with no military functions, intended for display, etc.