

Act of 18 December 1987 relating to control of the export of ~~strategic~~<sup>strategic</sup> goods, services and technology

§ 1

The King may decide that goods and technology which may be of significance for other countries' development, production or utilization of products for military use or which may directly serve to develop the military capability of a country shall not be exported from the Norwegian customs area without special permission. A prohibition may also be laid down against rendering services as mentioned in the first sentence without special permission. Conditions for such permission may be stipulated.

The King may issue further regulations to supplement and implement this Act.

§ 2

Everyone is obliged to provide the Ministry with any assistance or information required in order to verify that the provisions of this Act or any regulations issued pursuant thereto are complied with.

For this purpose the Ministry may make an inspection and require that account books, business documents and other documents that may be of importance be submitted. The Ministry itself may examine these documents or authorize experts to do so. In connection with such examination the Ministry shall have access to office or company premises and shall be provided with the necessary assistance and guidance. Complaints in accordance with sections 14 and 15 of the Public Administration Act do not have a delaying effect unless so decided by the subordinate instance or the appeals instance.

The obligations under the first and second paragraphs apply notwithstanding any statutory obligation of secrecy.

Subject to the exceptions that follow from the above provisions, everyone is under an obligation of secrecy as regards information obtained under this Act. However, the obligation of secrecy shall not prevent:

1. information from being used to achieve the purpose for which it was provided or obtained; such information may inter alia be used in connection with the preparation of a case, the actual decision, the implementation of the decision, and the follow-up and control,
2. the information from being accessible to other public officials within the agency or service to the extent that this is necessary to establish suitable work routines and filing systems, inter alia for use as guidelines in other cases,
3. the administrative agency from furnishing other administrative agencies with information concerning an enterprise's relationship to the agency and concerning decisions made when this is necessary to further the duties under this Act of the agency furnishing the information,
4. the administrative agency from reporting or providing information concerning violations of the law to the prosecution authorities or to the supervisory authorities concerned if this is deemed desirable in the public interest or if prosecuting the violation falls naturally within the scope of the duties of the agency furnishing the information.

The Ministry may furthermore decide that public agencies in charge of assessment of taxes and control of value added tax shall be allowed access to information provided in accordance with this Act.

Sections 13 to 13e of the Public Administration Act do not apply.

§ 3

The Ministry may require confiscation of such account books and

documents as must be submitted in accordance with section 2, second paragraph. If there is reason to believe that such account books and documents exist, and if conditions otherwise so indicate, the Ministry may require a search of offices and all other premises which are not a private residence.

A claim for a search or confiscation is to be addressed to the police. As regards the further consideration of the claim, the provisions of the Criminal Procedure Act apply to the extent to which they are appropriate. The person against whom the claim is made shall be accorded the rights of a party to the suit in accordance with the provisions of the Criminal Procedure Act and, to the extent to which it is necessary for the enterprise, shall have access to the confiscated material. He is nevertheless not for that reason to be regarded as charged with a punishable offence. Section 204 of the Criminal Procedure Act applies correspondingly. Notwithstanding section 212, first paragraph, of the Criminal Procedure Act, the Court determines which documents etc. the Court shall examine.

#### § 4

When the Ministry requires a search or confiscation for the purpose of obtaining information with regard to a matter with which the person concerned has been charged or for which he has been indicted, the claim shall be tried as a separate case in accordance with the provisions of section 3, second paragraph. The same applies when the Ministry requires to see documents etc. in the possession of the Court or the prosecution authorities without a decision having been made as to whether they may be used in the criminal case. If the Court upholds the Ministry's claim, it may stipulate as a condition that the information not be used in connection with the investigation of the criminal case until a final decision has been made as to whether the prosecution authorities may make use of it in the case concerned. If the prosecution authorities' claim is not upheld, the Ministry may not hand over the information or the documents to the

prosecution authorities unless it is lawful to do so in accordance with those rules which otherwise apply to their obligation of secrecy in respect of punishable acts.

§ 5

Unless the matter is subject to a more severe penalty otherwise provided by statute, a penalty may be imposed of fines or imprisonment for up to five years, or both, when a person wilfully:

1. exports or attempts to export goods, technology or services in contravention of this Act or regulations issued pursuant thereto, or
2. violates or attempts to violate any condition laid down pursuant to this Act, or
3. orally or in writing furnishes erroneous information concerning conditions of significance for the permission to export goods, technology or services when this information is furnished:
  - a. in a declaration made for use by a public official or anyone acting on behalf of a public official in connection with export or an application for permission to export,
  - b. in a declaration which shall enable another person to make such a declaration as is mentioned under litra a, or
4. in any other way contravenes or attempts to contravene provisions issued pursuant to this Act.

Complicity in any offence as mentioned in the first paragraph is subject to the same penalty.

A negligent offence as mentioned in the first paragraph, or complicity therein, shall be punished by fines or imprisonment for up to two years.

§ 6

If a punishable act as mentioned in section 5 is committed by any person on behalf of a limited liability company, a limited partnership, or some other association or foundation, a fine may be imposed on the enterprise as such.

When imposing a fine in accordance with the first paragraph, it shall inter alia be taken into account whether the offence was committed for the purpose of promoting the interests of the enterprise or whether the enterprise has benefited from the offence.

The enterprise on whose behalf the perpetrator has acted may be deprived of the right to engage in commercial activities.

Criminal liability in terms of this provision is time-barred after the expiry of ten years.

§ 7

The Ministry may direct an enterprise or a person that does not fulfil its obligation to provide information under section 2 to pay a specified sum of money per day until the obligation has been fulfilled.

The size of the fine is determined on the basis of how important it is that the order be implemented and what costs it is presumed this will entail.

The fine may be collected by distraint.

The King may issue further regulations concerning the stipulation, calculation and remission of fines.

The Act enters into force immediately. The regulations relating to control of strategic exports issued in pursuance of Provisional Act No. 30 of 13 December 1946 relating to Export Control apply until further notice.

The Act is not applicable to permission granted prior to its entry into force. Services rendered and transfers of technology etc. effected after the entry into force of the Act nevertheless require permission in accordance with this Act even if they are related to permission which has previously been granted.