

**LAW ON FOREIGN TRADE IN
WEAPONS, MILITARY EQUIPMENT AND DUAL-USE GOODS
(Published in the Official Gazette No 7 from February 2, year 2005.)**

I. BASIC PROVISIONS

Article 1.

This Law stipulates methods and conditions under which it is possible to do foreign trade, transport and transit of weapons, military equipment and dual-use goods (hereinafter referred to as “controlled goods”), defines their definitions, establishes the authority in charge of issuing licenses for export, import, transport, transit, brokering and services in foreign trade activities, stipulates conditions for issuing licenses, authorizations of authorities in charge of implementing this Law, supervision and control, and penalties in case of violating the Law.

The Council of Ministers of the State Union is authorized to issue regulations for implementation of articles of this Law.

Article 2.

The goal of this Law is to establish state control over realization and protection of national security, foreign political and economical interests of the State Union, international credibility and integrity and to ensure respect of international obligations undertaken by the State Union.

Article 3.

In accordance with this Law the following are considered to be controlled goods:

1. Weapons, military equipment and related technologies harmonized with “Common List of Military Equipment covered by the EU Code of Conduct on Arms Exports”.
2. Dual-use goods, including software and technologies that may be used for both civilian and military purposes, harmonized with “List of Dual-Use Goods and Technologies” of European Union.

The Council of Ministers establishes a National Control List of weapons and military equipment and a List of dual-use goods, as well as other Lists for fulfilling obligations from international conventions and agreements.

Article 4.

Goods not described in Article 3 of this Law are also considered to be controlled goods when the person concerned, has been informed by a competent authority or has reason to think that goods are or may be intended, entirely or partially, to be used in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons.

Article 5.

Foreign trade in controlled goods includes particularly:

- 1) Export and import;
- 2) Scientific and technical co-operation, production co-operation, acquisition and transfer of property rights for technologies in the area of manufacturing controlled goods;
- 3) Intellectual and material services that might be used for designing, developing, production, using and maintaining of controlled goods;
- 4) Representing foreign companies, brokering, re-export, maintenance and other services in the foreign trade of controlled goods,
- 5) non-commercial export and import.

Article 6.

In the sense of this Law, transport of controlled goods includes all types of transportation (land, water, and air transport) of controlled goods into and out of the territory of Serbia and Montenegro.

Article 7.

In the sense of this Law, transit (with or without transshipment) of controlled goods includes all types of transportation (land, water, and air transport) across the territory of Serbia and Montenegro, regardless of final destination.

Article 8.

Foreign trade in controlled goods defined by Articles 3 and 4 may be conducted only against a license issued by the Ministry of Foreign Economic Relations of the State Union of Serbia and Montenegro (hereinafter referred to as “the Competent Ministry”), unless otherwise provided by this Law.

Article 9.

Transport and transit of controlled goods defined by Articles 3 and 4 may be conducted only against an approval issued by the competent authorities.

Article 10.

Foreign trade in controlled goods may be conducted only by a physical or legal person (hereinafter referred to as a “person”), registered for these activities with the Competent Ministry.

Prior to starting the foreign trade activities, a person is obliged to identify whether related goods are pertaining to the category of controlled goods as per Articles 3 and 4 of this Law.

Article 11.

In accordance with this Law, the Competent Ministry creates a database of registered persons who could perform foreign trade of controlled goods, and closely regulates the registration procedure.

Article 12.

In order to register for foreign trade in controlled goods, a person should submit an application, which should contain particularly:

- 1) A copy of the registered activity notarized by the Trade Court,
- 2) Registration number and tax identification number,
- 3) Certificate of the competent authority that the applicant has not been under criminal charges and that he is not under investigation,
- 4) Name of the depositors bank and documents certified by the depositors bank (copies of the latest annual balance sheet and current account balance, certificate that the transfer account has not been blocked in the last 6 months, copy of the deposited signatures),
- 5) A statement of the applicant that he is not facing bankruptcy,
- 6) Certificate of the competent authority that the applicant does not have any unpaid debts in terms of tax and custom duties, which should be collected by means of a court decision,
- 7) Number and structure of employees,
- 8) List of major jobs conducted with domestic and foreign companies,
- 9) A statement of the applicant - obligation to provide full cooperation and assistance to the competent authority in control and supervision of activities related to foreign trade in controlled goods, storage facilities and transport vehicles.

Article 13.

A license for foreign trade of controlled goods is a written document of the Competent Ministry, which allows the person to perform the single foreign trade of known quantity and type of controlled goods under the conditions agreed upon a contract between a person and foreign trade partner.

Article 14.

License application for foreign trade in controlled goods should particularly contain the following data:

- 1) Name, address and registry number of importer or exporter,
- 2) Type, description, tariff number, category and identification number from the List of controlled goods and quantity of controlled goods,
- 3) Purpose for use of controlled goods,
- 4) Total value of controlled goods,
- 5) Information about all participants in trade: manufacturer, seller, owner, buyer, shipping agent, transporter, brokers and agents,
- 6) Name and address of end user,
- 7) Manner of payment,
- 8) Suggestion for license validity,
- 9) Other required data and documents needed for making decision.

Article 15.

Along with the data stipulated in Article 14, for the purpose of granting export license of controlled goods the applicant is also required to submit an original END USER CERTIFICATE, not older than 6 (six) months, obtained from the official authority of the country of final destinations, a notarized translation of EUC into Serbian language and other required documents needed for decision-making process.

An original End User Certificate should contain the following data:

- 1) Name and address of exporter,
- 2) Name and address of final user of controlled goods,
- 3) Country of final destination,
- 4) Description, quantity and purpose of controlled goods,
- 5) Statement that controlled goods are not going to be used for different purposes, re-exported or otherwise transferred or traded without written approval of the Competent Ministry from the country of origin,
- 6) Signature, name and position of authorizing officer,
- 7) Number and issuing date.

Article 16.

End User Certificate for controlled goods import shall be issued by the Competent Ministry.

Article 17.

The Competent Ministry defines the unique form of license application, license form and other forms of documents that follow foreign trade in controlled goods.

Article 18.

A license for foreign trade in controlled goods shall particularly contain the following data:

- 1) Name, registry number and address of exporter or importer,
- 2) Type, description, tariff number, category and identification number from the List and quantity of controlled goods,
- 3) Total value of controlled goods that are subject of export or import,
- 4) Name and address of manufacturer/owner and final user of controlled goods,
- 5) Manner of payment,
- 6) Validity of a license,
- 7) Number, date, stamp and signature of authorized person.

The license validity is limited to one-year period.

Article 19.

Before deciding on an application for issuing license in the sense of this Law, the Competent Ministry shall seek consent from the ministries responsible for foreign affairs and defense of Serbia and Montenegro.

The ministries responsible for foreign affairs and defense of Serbia and Montenegro have the right of veto in a decision-making process regarding trade in weapons and military equipment.

In the case of veto from both ministries from paragraph 2, the Competent Ministry can't issue a license, but in the case of veto from one ministry the final decision shall be provided by the Council of Ministers.

Article 20.

In a decision-making process of giving consent for foreign trade in controlled goods, the Ministry of Foreign Affairs should evaluate the following:

- 1) Sanctions of the United Nations Security Council and recommendations of the Organization for Security and Co-operation in Europe (OSCE);
- 2) Accepted international obligations and foreign political interests of Serbia and Montenegro;
- 3) The European Union Code of Conduct for Arms Exports;
- 4) Level of violation and/or respecting of human rights and freedoms in the country of final destination.

Article 21.

In a decision-making process of giving consent to foreign trade in controlled goods, the Ministry of Defense should evaluate the following:

- 1) Influence on the security of Serbia and Montenegro;
- 2) Whether the weapons and military equipment that have been planned for exports are on the export list of weapons and military equipment;
- 3) Whether there is the decision of the Ministry of Defense regarding weapons and military equipment from the stock of the Army of Serbia and Montenegro;
- 4) Whether the Army of Serbia and Montenegro, in the process of transfer of technology, participates in ownership of the technology.

Article 22.

The Competent Ministry will decide on a license application within 30 days of the receipt thereof.

Article 23.

The Competent Ministry will refuse to issue a license if:

- 1) Exporter or importer fails to meet the conditions stipulated in the Articles 10, 12, 14, 15, 20 and 21 of this Law,
- 2) It contradicts the interests of foreign policy, national security or economy of Serbia and Montenegro.

Article 24.

The Competent Ministry will revoke an issued license if:

1. The license has been issued on the basis of false data or the issuing conditions have been changed significantly,
2. The person has violated the interests of foreign policy, national security or economy of Serbia and Montenegro,
3. The person stopped complying with the conditions for issuing license or the conditions stipulated in the license have not been obeyed.

For cases listed in items 1 to 3, the State Union is not considered responsible toward license holders for possible damages resulting in the revocation of the license.

Article 25.

Person is obligated to inform in writing the Competent Ministry about realization of foreign trade of controlled goods or to return received license which is not realized, not later than 15 days after expiration of the license validity.

At the Competent Ministry's request, exporter is obligated to provide confirmation of the receipt of controlled goods, issued by the competent authority from the country of final destination.

Article 26.

The Competent Ministry creates a database of approved, denied and revoked licenses in accordance with this Law.

The Council of Ministers adopts an annual report on foreign trade in controlled goods and informs about that the Parliament of the State Union of Serbia and Montenegro.

II. TRANSPORT AND TRANSIT OF WEAPONS AND MILITARY EQUIPMENT

Article 27.

Ministries responsible for internal affairs of the Republic of Serbia and the Republic of Montenegro approve continental and waterway transport of weapons and military equipment, based on the previously issued license from the Competent Ministry for specific foreign trade business and with consent of the ministries responsible for foreign affairs and defense of Serbia and Montenegro

The authority of Serbia and Montenegro responsible for Civil Aviation approves air transport of weapons and military equipment, based on the previously issued license from the Competent Ministry for specific foreign trade business and with consent of the ministries responsible for foreign affairs and defense of Serbia and Montenegro.

Article 28.

Continental and waterway transit (with or without transshipment) of weapons and military equipment shall be performed in the prescribed manner upon approval given by the ministries responsible for internal affairs of the Republic of Serbia and the Republic of Montenegro, and with consent of the ministries responsible for foreign affairs and defense of Serbia and Montenegro.

Air transit of weapons and military equipment is performed in the prescribed manner upon approval by the authority of Serbia and Montenegro responsible for Civil Aviation, and with consent of the ministries responsible for foreign affairs and defense of Serbia and Montenegro.

Article 29.

The necessary security measures are to be taken during the transport and transit of weapons and military equipment.

Continental and waterway transport and transit of weapons and military equipment on the territory of Serbia and Montenegro is to be conducted with an armed escort.

Article 30.

Terms and methods of transport and transit of weapons and military equipment, security measures and supervision of this transport and transit across the territory of Serbia and Montenegro are prescribed by special regulations of the Republic of Serbia and the Republic of Montenegro.

III. SUPERVISION AND CONTROL

Article 31.

The Competent Ministry, independently or in cooperation with other state authorities (the ministry responsible for defense, the ministries responsible for internal affairs, custom, security and intelligence authorities of the Republic of Serbia and the Republic of Montenegro), conducts supervision and control over the implementation of this Law.

Customs authorities, security-intelligence and inspection services are obliged to perform permanent control within the authorization given by the law and to inform the Competent Ministry about the results of such control.

Article 32.

Person who performs foreign trade of controlled goods (importer, exporter, broker, owner or other user) is obliged to keep documentation on foreign trade in controlled goods for a period of at least five years; to allow control and supervision and to assist in the process of control and supervision as well as to respect conditions stipulated in the license for foreign trade of controlled goods.

Article 33.

Person engaged in foreign trade, transport or transit of controlled goods must enable the authorities from Article 31 of this Law an insight in all phases of trade, transport and storage.

Article 34.

Person engaged in foreign trade, transport or transit of controlled goods, or procurement and storages of controlled goods, is obligated to undertake all necessary protection and safety measures.

Person is obligated to inform the Competent Ministry on missing or damaged controlled goods within 24 hours after incident.

Article 35.

If there are grounds for suspicions that person intends to procure controlled goods for purposes not specified in the license for foreign trade, the Competent Ministry will request other authorities from Article 31 of this Law to perform pre-control.

Other authorities make protocol on results of performed pre-control and inform in writing the Competent Ministry within 15 days from the day of its execution.

Controlled person has the right to be informed about protocol content, to get a copy of the protocol and to submit his opinion regarding results of control to the Competent Ministry within a seven days deadline.

Article 36.

During customs control of controlled goods that are subject of foreign trade, customs authorities can, within their competencies, limit, stop, seize or suspend transport of controlled goods and shall inform the Competent Ministry about that immediately.

Article 37.

Ministries responsible for finance of the Republic of Serbia and the Republic of Montenegro will specify obligations of their respective custom services in implementation of this Law.

Ministries of Interior Affairs of the Republic of Serbia and the Republic of Montenegro will define and prescribe their obligations in implementation of this Law.

Article 38.

Departments of custom and central bank of the Republic of Serbia and the Republic of Montenegro will quarterly inform the Competent Ministry about realization of issued licenses in accordance with their responsibilities.

IV. PENALTY PROVISIONS

Article 39.

A person shall be imprisoned from one to eight years and shall be fined amounting single to triple goods value, which are the subject of the criminal act, if willfully:

1. Perform foreign trade and brokering of weapons and military equipment without being registered into proper Record (Article 10).
2. Perform foreign trade and brokering of weapons and military equipment without a License issued from the Competent Ministry (Article 8).

A person shall be imprisoned from two to ten years and will be fined amounting single to quintuple goods value, which are the subject of the criminal act, if performing acts from this Article within organized group.

The goods, which are object of criminal act from this Article, shall be forfeited.

Article 40.

A fine amounting single to quintuple value of the goods which are matter of an offence, shall be imposed on a person who:

1. Perform foreign trade and brokering of controlled goods without being registered into proper Record (Article 10).
2. Perform foreign trade and brokering of controlled goods without a License issued from the Competent Ministry (Article 8).
3. Provides false data or omits material facts within the procedure of issuing a license (Article 14, 15 and 16).
4. Violates obligations from Articles 25, 32, 33 and 34 of this Law.

A fine amounting single to triple value of the goods, which are object of the offence, shall be imposed on a responsible person within legal person when the offender is legal person.

Article 41.

The Courts of the Republic of Serbia and the Republic of Montenegro are responsible for prosecution and penalty provision sentences.

V. INTERMEDIARY AND FINAL PROVISIONS

Article 42.

The legal rights which follow from single documents previously issued by competent authorities, and they are not entirely used or are used partially until the date of coming into force of the Law entering could be used according to the terms defined by these documents.

Article 43.

Regulations for implementation of this Law will be defined within three months from its coming into force.

Article 44.

On the date of this Law's coming into force, the Law on Production and Trade of Weapons and Military Equipment will cease to be valid (Official Gazette of the FRY, No. 41/96), the part related to the Foreign Trade of Weapons and Military Equipment.

Article 45.

This Law comes into force on the eighth day from the date of its publishing in the "Official Gazette of Serbia and Montenegro" and will be implemented from 1st January 2005.

Belgrade, May 2004

Annex 1.

**COMMON LIST OF MILITARY EQUIPMENT
COVERED BY THE EU CODE OF CONDUCT ON ARMS EXPORTS**

(Available on Internet – Official Journal of the European Communities)

[Embassy note: printed page provided. Can be found at:

http://europa.eu.int/eur-lex/pri/en/oj/dat/2000/c_191/c_19120000708en00010019.pdf]

Annex 2.

**EU LIST OF DUAL-USE ITEMS AND TECHNOLOGY
(COUNCIL REGULATION (EC) No 1334/2000)**

[Embassy note: Hard copy of cover page of Council Regulation (EC) No 1334/2000 of 22 June 2000 provided as annex. Text of regulation available on Internet at:

http://europa.eu.int/eur-lex/en/consleg/main/2000/en_2000R1334_index.html]