

Sweden: Law on control over products with dual-use and over technical assistance

UNOFFICIAL TRANSLATION

Swedish Code of Statutes 2000:1064

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Law on control over products with dual-use and over technical assistance

promulgated on 30 November 2000.

In accordance with a decision of the Riksdag, the following is enacted.

Scope of application

Section 1

This Act applies to control of products with dual-use and control of technical assistance.

This Act also contains certain additional provisions under Council Regulation (EC) no. 1334/2000 of 22 June 2000 setting up a Community regime for the control of exports of dual-use items and technology.

In addition to what is stated in this Act, the provisions of the Military Equipment Act (1992:1300) and the Act on Nuclear Activities (1984:3) may be applicable.

Definitions

Section 2

For the purposes of this law the terms *products with dual-use*, *export*, *exporter* and *export declaration* have the same meaning as given in article 2 of Council Regulation (EC) no. 1334/2000.

Section 3

For the purposes of this law the term *military products* in article 4.2 and 4.3 in the Council Regulation (EC) no. 1334/2000 has the same meaning as given in paragraph 1 of the law (1992:1300) on war material for war material.

For the purposes of this law the term *technical assistance* means all technical support that is connected to repair, development, construction, assembly, testing, maintenance or other technical service that might take forms such as training, transfer of knowledge and skills development or consultancy.

Permits

Section 4

Permit matters under this Act and in accordance with Council Regulation (EC) no. 1334/2000 shall be examined by the National Inspectorate of Strategic Products or by an authority appointed by the Government.

Authorities shall forward a matter with a statement of opinion to the Government for examination if the matter is of principle importance or is otherwise of particular weight.

The Government may issue additional regulations concerning submission of matters to the Government.

Exportation

Section 5

The Government may issue regulations concerning whether a product with dual-use shall require a permit for export accordance with article 5.1 of Council Regulation (EC) no. 1334/2000.

Section 6

The Government or an authority appointed by the Government may issue regulations supplementary to the provisions on export permits in Article 6.2 of Council Regulation (EC) no. 1334/2000.

Section 7

The Government or an authority appointed by the Government may issue regulations concerning the export permit requirement in accordance with Article 21.2 of Council Regulation (EC) no. 1334/2000.

Section 8

With regard to permits for export of used nuclear fuel those limits contained in articles 20a and 24 of the Radiation Protection Act (1988:220) shall apply.

Technical assistance

Section 9

Technical assistance may not be provided outside the European Community if it is intended for use in connection with the development, production, handling, use, maintenance, storage, detection, identification or proliferation of chemical or biological weapons or of nuclear weapons or other nuclear explosive devices or in connection with the development, production, maintenance or storage of missiles that are able to deliver such weapons.

The government may issue regulations granting exceptions from this ban.

Importation

Section 10

The government or an authority appointed by the government may issue regulations regarding a requirement for permission to import chemical precursors (substances) that can be used for production of chemical weapons.

Withdrawal of permits

Section 11

Export or supply permits under Council Regulation (EC) no. 1334/2000 may be cancelled if the permit holder has disregarded a condition of the Regulation or a condition issued by virtue of the Regulation or this Act or if there are other special reasons for withdrawing the permit.

Withdrawal of a permit takes force immediately unless a decision has been taken to some other effect.

Annual fee and declaration

Section 12

Regulations concerning the liability of manufacturers of products listed in this Act to pay annual fees to cover the costs of the National Inspectorate of Strategic Products are found in Section 22 of the Military Equipment Act (1992:1300).

Persons liable to pay a fee shall each year submit a declaration to the National Inspectorate giving the information needed to determine the fees in accordance with more precise regulations issued by the Government.

The Government may issue regulations concerning exemptions from the obligation to submit a declaration.

Section 13

In accordance with more detailed instructions issued by the Government or an authority appointed by the Government, a declaration shall be made each year by persons or entities who

1. produce, prepare, use, take into or out of the country chemical precursors (substances) that can be used for the production of chemical weapons,

2. have in any of the last three years produced, prepared, used, taken into or out of the country such products, or
3. produce discrete organic chemicals.

The declaration shall provide information about

1. activities in the previous calendar year,
2. activities planned for the coming calendar year,
3. changes in activities planned for the current calendar year.

The declaration shall be submitted to an authority appointed by the Government.

Verification of information

Section 14

Persons or entities who have submitted a declaration in accordance with Section 13 shall, at the request of the authority referred to in Section 13, sub-section three, also provide the information and documents that may be needed for monitoring the information in the declaration.

For purposes of monitoring, representatives of the said authority are entitled to have access to the areas, premises and plants in which activities falling under the obligation to submit a declaration are carried on and the representatives may carry out examinations there and take samples. However, this does not apply to private rooms. The police authority shall provide the assistance needed to be able to carry out the inspection.

Supervision and control

Section 15

Inspection and other forms of monitoring observance of the provisions of Council Regulation (EC) no. 1334/2000 shall be carried out by the National Inspectorate of Strategic Products or by an authority appointed by the Government (supervisory authority).

The Government may issue regulations on supervision.

Section 16

The supervisory authority is entitled to obtain on request the information and documents needed for monitoring the activities of a person or entity engaged in transfers within the European Community or for export of products with dual-use or the person or entity that provides technical assistance. The term documents is understood to include representation in written or picture form along with received matter that can only be read, listened to or understood in some other way with technical aid.

The supervisory authority is entitled to have access to premises in which the person or entity referred to in sub-section one carries on his activities. However, this does not apply to spaces that constitute the living quarters of somebody.

The police authority shall provide any assistance needed to be able to carry out the inspection. The supervisory authority may also request the assistance of other public authorities for its inspection.

Section 17

Persons or entities who are liable under Article 16.2 or Article 21.5 of Council Regulation (EC) no. 1334/2000 to keep and, on the request of the supervisory authority, to show documents shall keep the documents for five years or the longer period that may be prescribed for some information or documents under another Act or statute.

Penalties, etc.

Section 18

Anybody that without permission

1. exports products with dual-use listed in articles 3, 4.1-4.3 and 5.1 of Council Regulation (EC) no. 1334/2000, or
2. exports products with dual-use listed in article 21 of the same Regulation

will be sentenced to a fine or imprisonment for up to two years.

What has been written in the first sub-section also applies to anybody who transfers using electronic means listed in article 2(b)(iii) of Council Regulation 1334/2000 without permission

1. exports computer software or technology listed in articles 3, 4.1-4.3 and 5.1 of the same Regulation, or
2. transfers software or technology listed in article 21 of the same Regulation.

If the crime under the first or second sub-section is considered to be particularly serious the sentence will be imprisonment for a period not less than six months and not more than six years.

In judging the gravity of a crime, special attention shall be paid to whether the offence was one part of criminal activity carried out systematically or on a larger scale, or whether the offence was a grave violation a significant public interest.

Section 19

Any person who as the result of gross negligence offends against Section 18 sub-sections one or two shall be sentenced to fines or to imprisonment for at most two years.

In minor cases, no sanction shall be imposed.

Section 20

Any person that deliberately breaches section 9 shall be sentenced to fines or imprisonment for up to six years.

If that offence is regarded as a grave offence, the penalty shall be imprisonment for at least six months and at most six years.

In judging the gravity of a crime, special attention shall be paid to whether the offence was one part of criminal activity carried out systematically or on a larger scale, or whether the offence was a grave violation a significant public interest.

Section 21

Attempts to offend against sub-sections one or two of section 18 or sub-section one of section 20, preparations and conspiracy to commit grave offences under sub-section three of section 18 or sub-section two of section 20 shall be sentenced in accordance with chapter 23 of the criminal code.

Section 22

Sentence of fines or imprisonment shall be passed on any person that intentionally or due to negligence

1. gives incorrect information in an application for a permit or in any other document which is of importance for the processing of a matter under Council Regulation (EC) no. 1334/2000 or under this Act or in a declaration as described in section 12 or section 13,

2. disregards his/her obligation to provide information under Article 4.4 of the same Regulation,
3. disregards his/her obligation to provide information under Article 21.7 of the same Regulation (EC), or
4. violates Article 16.2 or 21.5 of the same Regulation (EC) or Section 17 of this Act.

In minor cases, no sanction shall be imposed.

Section 23

Unless this would be manifestly unreasonable the following shall be declared forfeit:

1. products that have been the object of offences under this Act or the value of such products,
2. the proceeds of offences under this Act,
3. whatever anybody has taken as compensation for costs in connection with an offence under this Act, or the value of the such compensation, if the recipient was carrying out an offence under this act.

A product described in the first sub-section or rights to the product may not be declared forfeit if the product or rights have passed to somebody that did not have knowledge about or reasonable grounds to know that the item was connected with an offence. Where forfeit of a product takes place under the first sub-section the decisions in chapter 35 sub-sections one and sub-section two of section 5 of the criminal code concerning where and against whom the forfeit shall take place do not apply.

Property that has been used to assist in carrying out an offence under this Act may be declared forfeit by a court, if the forfeit is necessary to prevent the carrying out of a crime under this Act or if there is other special reason. Instead of property its value may be declared forfeit. In chapter 36, section 5 of the criminal code decisions are found concerning where and against whom the forfeit shall be carried out and concerning rights to the property declared forfeit.

Instead of forfeit according to sub-section three of a property or its value the court may determine that some measure be taken with the property to prevent its future misuse. In such cases a share of the value of the possession may still be declared forfeit.

Section 24

If the person or entity under obligation to provide information neglects to submit a declaration as described in Section 12 or 13 at the right time, the authority that is to receive the declaration shall order the person or entity on penalty of a fine to fulfil his/its obligation.

Appeal

Section 25

An appeal against a decision by an authority other than the government to revoke a permit may be lodged with a general administrative court. The same applies to a decision by an authority under Sections 14, 16 and 24.

Review dispensation is required in the case of appeal to an administrative court of appeal.

Appeals may not be lodged against other administrative decisions under Council Regulation (EC) no. 1334/2000 or under this Act.

This Act will enter into force on 1 January 2001, when the Strategic Products Act (1998:397) is abolished.

On behalf of the Government

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