

ACT ON EXPORT OF DUAL-USE ITEMS

I GENERAL PROVISIONS

Article 1

This Act defines the requirements for export of dual-use items, competences of state administration bodies in the procedures of dual-use items export, and the rights and obligations of exporters carrying out dual-use items export.

Article 2

For the purpose of this Act, individual terms shall have the following meanings:

- “Dual-use items” shall mean items, including software and technology, which can be used both for civil and military purposes, and shall include all goods which can be used for both non-explosive uses and assisting in any way in the manufacture of nuclear weapons or other nuclear explosive devices;
- “Export” shall mean customs procedure arranged by customs regulations for the dual-use items that permanently or temporarily leave the customs territory of the Republic of Croatia, including a re-export of such items. Export shall also mean a transmission of software and technology by electronic media, fax or telephone to a destination outside the Republic of Croatia; this also applies to oral transmission of technology by telephone only where the technology is contained in a document the relevant part of which is read out over the telephone, or is described over the telephone in such a way to achieve substantially the same result;
- “Exporter” shall mean any legal or natural person – a craftsman with the seat or residence on the territory of the Republic of Croatia or natural person with the residence in the Republic of Croatia.

Article 3

- (1) Regulation on items that in the sense of this Act are considered dual-use items is adopted by the Government of the Republic of Croatia (hereinafter referred to as the Government) on the proposal of the ministry competent for economy (hereinafter referred to as the Ministry).
- (2) In preparation of the Regulation proposal referred to in Paragraph 1 of this Article the Ministry cooperates with the bodies of the government administration in whose jurisdiction is the dual-use items export, with scientific institutions and economic agents, according to the assumed international obligations.

Article 4

If it is not otherwise arranged by this Act, an act arranging general administrative procedure shall be applied to the procedure for the issuing of dual-use items export licences (hereinafter referred to as “export licence”).

II EXPORT LICENCES

Article 5

- (1) Dual-use items can be exported only according the export licence issued by the Ministry.
- (2) The export licence shall be required for the export of dual-use items which are not listed in the Regulation referred to in Article 3 of this Act, but the Ministry has notified the Exporter:
 - on goods that is or may be intended, in their entirety or in part, for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or proliferation of chemical, biological or nuclear weapons, or in connection with the development, production, maintenance and storage of missiles capable of delivering chemical, biological or nuclear weapons;
 - on goods if the purchasing country or country of destination is subject to an arms embargo decided by a common position or joint action adopted by the Council or a decision of the OSCE or an arms embargo imposed by a binding resolution of the Security Council of the United Nations;
 - on goods that are or may be intended, in their entirety or in part, for a military end-use.
- (3) If an Exporter is aware that dual-use items which he proposes to export are not listed in the Regulation referred to in Article 3 of this Act, and are intended, in their entirety or in part, for any of the uses referred to in Paragraph 2 of this Article, he must notify the Ministry thereof which will decide whether or not it is expedient to make the export concerned subject to authorisation.

Article 6

- (1) An application for the issuance of the export licence is submitted to the Ministry.
- (2) The form and the content of the export licence application form as well as the list of documents accompanying the application are prescribed by the Minister competent for economy (hereinafter referred to as “Minister”).

Article 7

- (1) The Ministry issues the export licence upon the proposal of the Commission.
- (2) The Commission is appointed by the Minister, and consists of the representatives of the ministries competent for foreign affairs, internal affairs, defence, customs and

economy and, depending on the end user and nature of goods, the representatives of other bodies.

- (3) Beside the proposals from Paragraph 1 of this Article, the Commission gives its expert opinion to the Ministry on the identification and classification of the dual-use items.
- (4) The Ministry carries out expert and administrative operations for the Commission.
- (5) The Commission passes the Rules of Procedure on its work.

Article 8

- (1) The Ministry shall issue an export licence for each single export.
- (2) Exceptionally from Paragraph 1 of this Article, the Ministry can issue to an Exporter a general export licence covering the same type of goods, for one or more countries, taking into consideration the type of dual-use goods and long-term nature of export contracts of the export businesses and a country to which the goods are exported.
- (3) The licence referred to in Paragraph 2 of this Article shall be issued with a validity not exceeding one year, and is renewable upon the request of the Exporter for the following six months.

Article 9

- (1) The Ministry shall decide on an export licence application within sixty days of the day of receipt thereof, i.e. within ninety days in case the procedure of issuance requires further verification.
- (2) In the procedure of the export licence issuing the Ministry and the Commission referred to in Article 7 of this Act shall take into account the foreign policy, security, defence and economic interests of the Republic of Croatia, as well as the assumed international obligations.

Article 10

- (1) The Ministry shall refuse the export licence application if it finds that the dual-use items export:
 - threatens the fulfilment of the international obligations of the Republic of Croatia;
 - threatens the security and defence interests of the Republic of Croatia or is contrary to its national security strategy;
 - is contrary to the international political and economic interest of the Republic of Croatia;
 - enables the out-break and continuation of armed conflict in the country of end use of goods;

- enables the use of the goods for encouraging of riots in the country of end use of goods.
- (2) The Ministry shall refuse the export licence application if the goods are not in accordance with the information stated in the application, and upon the request of the Ministry the Exporter or the manufacturer does not provide inspection of the goods or records related to the goods.
 - (3) The Ministry shall refuse the export licence application for the goods not listed in the Regulation referred to in Article 3 of this Act, and for the purpose of public security and human rights protection.

Article 11

- (1) If the country exporting the dual-use items requires an import certificate of the authorized body of the Republic of Croatia, the Ministry shall issue the dual-use items certificate.
- (2) The form and the content of the import certificate application, as well as the evidences to be attached to the request are prescribed by the Minister.

Article 12

- (1) The Ministry may take a decision on termination of the issued export licence validity if it verifies that:
 - one or more conditions on the basis of which the export licence was issued are no longer applicable;
 - the Exporter fails to meet the obligations arising from the issued export licence.
- (2) The Ministry may annul the export licence if it determines that the licence was issued on the basis of false or incomplete information and that the applicant knew or had to know that the information was false or incomplete.
- (3) Against the decision brought on the basis of Articles 9 and 10 of this Act and Paragraphs 1 and 2 of this Article the complaint is not allowed, but an administrative dispute may be raised.

Article 13

- (1) The records related to dual-use items export has to contain at least the following information necessary for identification of goods:
 - the description of the goods by which it is possible to classify the goods according to the Regulation referred to in Article 3 of this Act or customs nomenclature;
 - the quantity of goods in measuring units and net weight of goods;
 - the full name and address of the Exporter and relevant court register information;

- the full name and address of the consignee of the goods;
 - intended end use and full name and address of the end user(s).
- (2) The Exporter shall keep the records referred to in Paragraph 1 of this Article (orders, invoices, contracts, dispatch notes, delivery notes, waybills, sea waybills and any other records) at least for a period of five years from the end of the calendar year in which the export of dual-use goods was conducted;
- (3) The Minister may also prescribe other information that should be included in the records referred to in Paragraph 1 of this Article.

Article 14

- (1) Within five days from the date of dual-use items export the Exporter shall notify the Ministry on export business concerned and quote the reference number of the licence on the basis of which the export business has been carried out.
- (2) For any changes that may occur after the issuance of a licence for the export of dual-use items concerning business partners, end users, intended end use, etc., the Exporter shall notify the Ministry in writing within five days from the day when the change occurs or when he becomes aware of the change.

Article 15

- (1) The Ministry shall keep records of issued export licences and exports carried out on the basis of these licences and collect and process data related to the dual-use items export implementation.
- (2) For the needs of performing its duties under this Act and within the framework of its competences, the Ministry shall cooperate with the appropriate international organizations and the authorities of other countries and provide them with corresponding data in accordance with the assumed obligations of the Republic of Croatia.

Article 16

- (1) The Ministry of Finance – Customs Administration of the Republic of Croatia shall conduct the control of the dual-use items export and shall perform conformity assessment of the goods with the export licence.
- (2) In the procedure of the issuance of an export licence and after the issuance of the export licence, the Ministry may inspect the dual-use items and the pertaining documentation in the Exporter's or the manufacturer's premises.

- (3) In the procedure of inspection of the dual-use items the Ministry may ask experts' assistance of the Commission referred to in Article 7 of this Act to perform conformity assessment of the goods with the information stated in the application.
- (4) If the Ministry of Finance – Customs Administration of the Republic of Croatia, while conducting control referred to in Paragraph 1 of this Article, determines that the provisions of this Act have been violated, it will issue a time period in which all the irregularities should be removed.

Article 17

The Ministry of Finance – Customs Administration of the Republic of Croatia shall control the dual-use items export carried out on the basis of the export licence issued pursuant to Article 8 of this Act, and shall notify on its findings the Ministry twice a year in writing.

Other bodies of state administration in accordance with their competencies shall perform the control of other forms of export in the context of this Act.

III PENALTY CLAUSES

Article 18

- (1) A fine amounting to not less than 50,000 Kuna, or to 250% of the export business value, shall be imposed on a legal or natural person – a craftsman – if:
 - he exports the dual-use items without the export licence (Article 5, Paragraphs 1, 2 and 3),
 - he fails to notify the Ministry that the items concerned are dual-use items (Article 5, Paragraph 3),
 - he fails to notify the Ministry on any changes in the intended end use of the dual-use items after the issuance of the respective licence (Article 14, Paragraph 2).
- (2) A fine amounting to not less than 10,000 Kuna, or to 50% of the export business value, shall be imposed on a responsible person in the legal person violating Paragraph 1 of this Article.
- (3) A fine amounting from 5,000 to 10,000 Kuna shall be imposed on any other natural person violating Paragraph 1 of this Article.
- (4) Beside the fine, for the violation referred to in Paragraph 1 subparagraph 1 of this Article, a precautionary measure of the dual-use items export prohibition can be pronounced for a period of at least six months, at the most a year.

Article 19

- (1) A fine amounting from 50,000 to 100,000 Kuna shall be imposed on a legal or natural person – a craftsman – for the violation if:

- he acts in contravention to the provisions of Article 13, Paragraphs 1, 2 and 3 of this Act,
 - he fails to notify the Ministry, or fails to notify in time, on the completion of the dual-use items export (Article 14, Paragraph 1).
- (2) A fine amounting from 5,000 to 10,000 Kuna shall be imposed on the responsible person in the legal person violating Paragraph 1 of this Article.
- (3) A fine amounting from 1,000 to 5,000 Kuna shall be imposed on any other natural person violating Paragraph 1 of this Article.

IV FINAL PROVISIONS

Article 20

The Regulation referred to in Article 3 of this Act shall be passed by the Government within six months from the date of entry into force of this Act.

Article 21

The Regulations referred to in Article 6, Paragraph 2 and Article 11, Paragraph 2 of this Act the Minister shall pass within three months from the date of entry into force of this Act.

Article 22

This Act shall enter into force on the eighth day following its publication in the "Official Gazette", and shall apply from January 1st 2005.

Ref.No.: 331-02/04-01/01

Zagreb, July 9th 2004

CROATIAN PARLIAMENT

President of the Croatian Parliament:

Vladimir Šeks, p.s.