

LAW ON EXPORT CONTROL OF ARMS AND DUAL-USE ITEMS AND TECHNOLOGIES

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Chapter One

GENERAL PROVISIONS

Article 1. (1) This act shall regulate:

1. the terms and procedures for exports, imports, transfers to the Community, referred to hereinafter as "transfers", transport and transit of arms, arms brokerage and the control of the state thereon.

2. the controls on the exports and transfers of items and technologies with dual use referred to hereinafter as "dual-use items" pursuant to Council Regulation (EC) No. 1334/2000 on setting up a Community regime for controls of exports of dual-use items and technology as amended and supplemented, referred to hereinafter as "Regulation 1334/2000";

3. the terms and procedures for imports of and brokerage with dual-use items and brokerage with them and the control of the state thereon;

4. the provision of technical assistance for military end-use pursuant to Joint Action of the Council 2000/401/CFSP.

(2) The performance of activities under paragraph 1 shall be subject to controls by the state with the aim to protect national security, the economic and foreign trade interests of the Republic of Bulgaria as well as to strengthen international peace and security and to comply with the international obligations of the Republic of Bulgaria.

Article 2. (1) The Council of Ministers shall adopt a list of dual-use items which shall be controlled on import and a list of arms to which the provisions herein shall apply. The lists shall be published in the State Gazette.

(2) The dual-use items that are subject to export controls are specified in Annex I of Regulation 1334/2000.

Article 3. The following shall not be subject to controls: the arms, gear, machines and equipment included in the lists under article 2 of foreign military and police contingents on their crossing the borders and staying on the territory of the Republic of Bulgaria and on crossing the borders of Bulgarian military and police contingents in case of:

1. implementing obligations of the Republic of Bulgaria ensuing from international agreements and membership in international organisations;

2. participation in peace-enforcement, peace-keeping, peace-maintenance and peace-building operations;

3. participation in international exercises conducted on or outside the territory of the Republic of Bulgaria;

4. implementing humanitarian, environmental, sports and demonstration tasks of a peaceful nature.

Article 4. (1) The Council of Ministers shall be entitled to introduce restrictions and to impose prohibitions on conducting activities with arms and dual-use items in the meaning herein when:

1. the activity contradicts the objectives and obligations set out in article 1, paragraph 2;

2. the items are intended or may be used for creating, manufacturing, processing, developing, managing, maintaining, storing and distributing weapons of mass destruction;

3. restrictions or prohibitions exist:

- a) imposed by the United Nations Security Council pursuant to its responsibilities in accordance with the United Nations Charter;
 - b) ensue from international agreements or from the membership of the Republic of Bulgaria in international organisations and in international export control regimes;
 - c) result from acts, joint actions and common positions of the European Union;
 - d) ensue from the accession of the Republic of Bulgaria to decisions of international organisations and international export control regimes to which it is not a full member;
4. the arms or dual-use items are intended for a state on the territory of which there are hostilities or which is a combatant in an armed conflict.
- (2) The restrictions and prohibitions under paragraph 1, unless they ensue directly from legal acts of the European Union, shall be adopted by the Council of Ministers and shall be published in the State Gazette.

Chapter Two

TERMS AND PROCEDURES FOR IMPORTS, EXPORTS, TRANSFERS, TRANSPORT AND TRANSIT OF ARMS AND ARMS BROKERAGE

Section I

General Requirements

Article 5. Only natural and legal persons registered under the Commerce Act shall be entitled to engage in exports, imports and transfer of arms.

Article 6. (1) Exports, imports and transfers of arms shall be done on the basis of an activity authorization issued by the Interdepartmental Council on the Issues of the Military-Industrial Complex and the Mobilisation Readiness of the Country with the Council of Ministers and a licence for each transaction issued by the Export Control and Weapons of Mass Destruction Non-Proliferation Interministerial Commission with the Minister of Economy and Energy, referred to hereinafter the "Interdepartmental Council" and "Interdepartmental Commission", respectively.

(2) Only natural and legal persons registered under the Commerce Act and registered for brokerage by the Interdepartmental Council under the procedure herein shall engage in brokerage with arms.

(3) Transportation of arms from the territory of a third country to the territory of another third country shall be done on the basis of an activity authorization issued by the Interdepartmental Council to natural and legal persons registered under the Commerce Act.

(4) The Ministry of Defence and the Ministry of Interior shall be entitled, without an activity authorization being required, to perform imports and transfers for their own needs and exports and transfers under claims related to authorised transactions in compliance with the requirements herein.

Article 7. (1) The Interdepartmental Council and the Interministerial Commission shall be headed by cabinet ministers.

(2) The membership and the procedures for carrying out the operation of the Interdepartmental Council and the Interministerial Commission shall be determined by the Council of Ministers, and the membership of the Commission shall include representatives of the Ministry of Economy and Energy, the Ministry of Interior, The Ministry of Foreign Affairs and the Ministry of Defence.

Article 8. (1) The bodies under article 6, paragraph 1 shall be entitled to require the opinion of other state authorities, as appropriate.

(2) When issuing an activity authorization, a licence or a registration certificate the competent authorities may conduct inspections and involve experts to provide opinions on issues requiring specialised knowledge.

Section II

Authorizing of Arms Exports, Imports, Transfers and Transport

Article 9. (1) An activity authorization for the right to conduct arms exports, imports and transfers and the right to transport arms shall be issued by the Interdepartmental Council for a specific term and with a specific scope.

(2) The rights under the activity authorization may not be transferred or ceded including in case of transformation of the licensed trader.

(3) Initially the activity authorization shall be issued for a one-year term and after its expiry every subsequent licence shall be issued for a three-year term.

(4) The activity authorization's scope may be full or restricted in relation to the positions in the list of arms and/or in relation to the end-user state or of the exporter.

(5) An activity authorization shall be issued to a natural or legal person complying with the requirements for reliability and economic soundness.

(6) The activity authorization shall be issued in two copies. The first copy shall be given to the applicant and the second one shall remain in the Interdepartmental Council.

Article 10. (1) The persons under article 5 applying for an activity authorization shall present to the Interdepartmental Council the following documents:

1. an application according to a sample approved in the regulation on implementing this act;

2. a current certificate on the registration in the commercial register or a copy of the decision on the original court registration and an original or a notarised copy of a court certificate on current state issued not earlier than 30 days before submitting the application and reflecting all changes as of the date of submitting the application;

3. a document issued by the competent court that the applicant has not been declared bankrupt or is not subject to bankruptcy proceedings, as well as that no termination of operation has been registered and no declaration of insolvency has taken place when the applicant has not been re-registered under the Commercial Register Act;

4. a document issued by the Ministry of Interior on clearing natural persons who participate directly in this activity;

5. a list of the natural persons who participate directly in this activity, accompanied by CVs and personnel files of the persons, previous convictions certificates and notarised sample signatures and clearance for access to classified information, if any;

6. a copy of a document issued by the competent authorities that the applicant has created conditions to protect classified information in the cases when this is required under the Classified Information Protection Act.

7. a previous convictions certificate of the sole proprietor, manager, executive officer, the members of the managing and supervisory body of the legal person and in case the members are legal persons - of their representatives in the respective managing body;

8. a notarised sample signature of the sole proprietor, manager, executive officer;

9. a unique identification code;

10. a certificate by the respective territorial directorate of the National Revenue Agency on the incomes and the absence of liquid and pending public receivables;

11. an affidavit by the sole proprietor, manager, by the members of the managing and supervisory body of the commercial company that the applicant has no liquid and pending liabilities to natural and legal persons when the liability has been acknowledged before the enforcement body;

12. a statement by the sole proprietor, manager, by the members of the managing and supervisory body of the commercial company that they are not related to persons and organisations which have infringed upon the legislation regulating activities with arms, dual-use items and technologies in the member states and in third countries;

13. a list of the items from the list of arms to be included in the activity authorization;

14. a document on paid state fees.

(2) With the documents under paragraph 1 the persons under article 5 may apply also for registration to engage in arms brokerage which shall be noted in the application.

(3) The persons under article 6, paragraph 3 applying for an activity authorization to transport arms shall present to the Interdepartmental Council the following documents:

1. an application according to a sample approved in the regulation on implementing this act;

2. a current certificate on the registration in the commercial register or a copy of the decision on the original court registration and an original or a notarised copy of a court certificate on current state issued not earlier than 30 days before submitting the application and reflecting all changes as of the date of submitting the application;

3. a document issued by the competent court that the applicant has not been declared bankrupt or is not subject to bankruptcy proceedings, as well as that no termination of operation has been registered and no declaration of insolvency has taken place when the applicant has not been re-registered under the Commercial Register Act;

4. a document issued by the Ministry of Interior on clearing natural persons who participate directly in this activity;

5. a list of the natural persons who participate directly in this activity, accompanied by CVs and personnel files of the persons, previous convictions certificates and notarised sample signatures and clearance for access to classified information, if any;

6. a copy of a document issued by the competent authorities that the applicant has introduced conditions to protect classified information in the cases when this is required under the Classified Information Protection Act.

7. a previous convictions certificate of the sole proprietor, manager, executive officer, the members of the managing and supervisory body of the legal person and in case the members are legal persons - of their representatives in the respective managing body;

8. a notarised sample signature of the sole proprietor, manager, executive officer;

9. a unique identification code;

10. a certificate by the respective territorial directorate of the National Revenue Agency on the incomes and the absence of liquid and pending public receivables;

11. an affidavit by the sole proprietor, manager, by the members of the managing and supervisory body of the commercial company that the applicant has no liquid and pending liabilities to natural and legal persons when the liability has been acknowledged before the enforcement body;

12. a statement by the sole proprietor, manager, by the members of the managing and supervisory body of the commercial company that they are not related to persons and organisations which have infringed upon the legislation regulating activities with arms, dual-use items and technologies in the member states and in third countries;

13. a list of the items from the list of arms to be included in the activity authorization;

14. a respective certificate or testimonial issued by a competent authority of the Ministry of Transport on the entitlement to perform arms transport;

15. a document on paid state fees.

Article 11. (1) The Interdepartmental Council shall issue decisions on applications within thirty days after their receipt.

(2) In case omissions and/or irregularities are established in the presented documents the Secretary of the Interdepartmental Council shall notify the applicant in writing within seven workdays to remove them and shall issue guidelines on their removal. In this case the deadline under paragraph 1 shall cease to run as of the date of sending the notification to the applicant and shall be resumed as of the date of arrival of the documents certifying the removal of the omissions and/or irregularities.

(3) After considering the application, the opinions of the Interdepartmental Council members and of the bodies under article 8 the Interdepartmental Council shall adopt a substantiated decision on issuing an activity authorization or on refusal to issue an activity authorization. The decision shall be communicated to the applicant within seven days after its adoption.

(4) The refusal to issue an activity authorization may be appealed against under the procedure of the Administrative Procedure Code.

Article 12. Within five workdays the Interdepartmental Council shall notify the Ministry of Interior, the Central Customs Administration of the Customs Agency and the Interministerial Commission of the issued, amended, suspended, withdrawn and terminated licences.

Article 13. (1) An issued activity authorization shall be amended by the Interdepartmental Council:

1. on the request of the licensed person;
2. in case of amendment of the normative requirements related to the activity authorization;
3. in case of changes in the circumstances under which the activity authorization was issued.

(2) In case the circumstances under which the activity authorization has been issued have changed the licensed person shall be obliged to submit an application to the Interdepartmental Council within 14 days after their occurrence.

(3) The documents attesting to the change and a document of paid state fees shall be attached to the application under paragraph 2.

(4) The documents submitted shall be considered within the procedures and terms in article 11.

Article 14. The Interdepartmental Council shall refuse with a substantiated decision to issue an activity authorization when:

1. circumstances exist that contradict the objectives and obligations specified in article 1, paragraph 2;
2. the application and the required documents attached to it do not correspond to the requirements of article 10;
3. the requirements of article 9, paragraph 5 do not exist;
4. the application for issuing an activity authorization has been submitted before the expiry of the term under article 16, paragraph 2.

Article 15. (1) The Interdepartmental Council shall suspend the activity authorization upon:

1. non-compliance with or breach of the activity authorization terms;
2. occurrence of changes in the circumstances under which the activity authorization was issued and the licensed person ceases to comply with the requirements for reliability and economic soundness;
3. failure to fulfil an obligation provided herein established with an act of a competent state authority.

(2) The Interdepartmental Council shall suspend the activity authorization for a period of up to six months during which it shall prohibit operations until the breach of the requirements is removed.

(3) If the Interdepartmental Council is not notified by the licensed person in writing within the term under paragraph 2 that the irregularities on the basis of which the activity authorization was suspended have been removed the issued licence shall be withdrawn.

Article 16 (1) The Interdepartmental Council shall withdraw the activity authorization upon:

1. the occurrence of circumstances contradicting the objectives and obligations specified in article 1 paragraph 2;
2. presentation by the licensee of false documents or incorrect information which have served as a basis for issuing the activity authorization;
3. the cases under article 15, paragraph 3.

(2) The decision to withdraw the activity authorization shall specify a term not exceeding two years during which the persons shall not be entitled to apply for issuing a new licence for the same activity.

Article 17. The Interdepartmental Council shall terminate the activity authorization upon:

1. application in writing by the licensed person;
2. deletion of the registration of the natural or legal person;
3. the demise of the natural person - sole proprietor;
4. placement of the natural person under judicial disability;
5. declaration of the trader bankrupt.

Article 18. (1) The decision on suspending and withdrawing the activity authorization shall be subject to appeal under the Code of Administrative Procedure.

(2) The appeal under paragraph 1 shall not prevent the implementation of the administrative act.

Article 19. (1) The Interdepartmental Council shall establish and maintain a public register in which the persons with issued, amended, suspended, withdrawn and terminated licences shall be entered.

(2) The following shall be entered in the register under paragraph 1:

1. the name, seat and management address; the person who according to the commercial registration represents the licensed person;
2. the unique identification code;
3. the registration number according to the Tax and Social Insurance Procedure Code;
4. the number and date of the activity authorization issued and its scope;
5. the grounds for and the date of suspending, amending, withdrawing or terminating the activity authorization.

Section III

Registration of Arms Brokerage

Article 20. (1) Registration of arms brokerage shall be done by the Interdepartmental Council for a period of three years.

(2) The rights under the registration cannot be transferred and ceded.

Article 21. (1) The persons under article 6, paragraph 2 applying for registration shall present to the Interdepartmental Council the following documents:

1. an application according to a sample approved in the regulation on implementing this act;
2. a current certificate on the registration in the commercial register or a copy of the decision on the original court registration and an original or a notarised copy of a court

certificate on current state issued not earlier than 30 days before submitting the application and reflecting all changes as of the date of submitting the application;

3. a document issued by the competent court that the applicant has not been declared bankrupt or is not subject to bankruptcy proceedings, as well as that no termination of operation has been registered and no declaration of insolvency has taken place when the applicant has not been re-registered under the Commercial Register Act;

4. a document issued by the Ministry of Interior on clearing natural persons who participate directly in this activity;

5. a list of the natural persons who participate directly in this activity, accompanied by CVs and personnel files of the persons, previous convictions certificates and notarised sample signatures and clearance for access to classified information, if any;

6. a previous convictions certificate of the sole proprietor, manager, executive officer, the members of the managing and supervisory body of the legal person and in case the members are legal persons - of their representatives in the respective managing body, certifying that the persons has no previous convictions for a premeditated crime of a general nature;

7. a unique identification code;

8. a certificate by the respective territorial directorate of the National Revenue Agency on the incomes and the absence of liquid and pending public receivables;

9. a notarised sample signature of the sole proprietor, manager executive officer;

10. an affidavit by the sole proprietor, manager, by the members of the managing and supervisory body of the commercial company that the applicant has no liquid and pending liabilities to natural and legal persons when the liability has been acknowledged before the enforcement body;

11. a statement by the sole proprietor, manager, by the members of the managing and supervisory body of the commercial company that they are not related to persons and organisations which have infringed upon the legislation regulating activities with arms, dual-use items and technologies in the member states and in third countries;

12. a document on paid state fees.

(2) Natural and legal persons possessing licences for imports, exports and transfer of arms may apply for registration of arms brokerage without submitting the documents under paragraph 1, items 2 - 11.

Article 22. (1) The Interdepartmental Council shall, within 30 days after receipt of the application, carry out registration and shall issue a certificate or shall deny registration.

(2) In case omissions and/or irregularities are established in the presented documents the Secretary of the Interdepartmental Council shall, within seven workdays, notify the applicant in writing to remove them and shall issue guidelines on their removal. In this case the deadline under paragraph 1 shall cease to run as of the date of sending the notification to the applicant and shall be resumed as of the date of arrival of the documents certifying the removal of the omissions and/or irregularities.

(3) The decision for registration or the denial shall be communicated to the applicant within seven days after its adoption.

(4) The refusal may be appealed against under the procedure of the Code of Administrative Procedure.

(5) A new application for registration may be submitted not earlier than six months after the entry into force of the denial of registration.

Article 23. (1) The Interdepartmental Council shall establish and maintain a public register of the persons who have received registration for arms brokerage.

(2) The following shall be entered in the register under paragraph 1:

1. the name, seat and management address; the person who according to the commercial registration represents the licensed person;
2. the unique identification code;
3. the registration number according to the Tax and Social Insurance Procedure Code;
4. the number and date of the certificate issued;
5. the grounds for and the date of suspending, amending, withdrawing or terminating the registration.

Article 24. The registered person shall be issued a certificate according to a sample approved by the regulation on implementing this act.

Article 25. Within five workdays the Interdepartmental Council shall notify the Ministry of Interior and the Interministerial Commission on the registrations done.

Article 26. (1) in case the circumstances entered in the register under article 23 have changed the registered person shall be obliged to submit an application to the Interdepartmental Council within 14 days after their occurrence.

(2) The documents attesting to the change and a document of paid state fees shall be attached to the application.

(3) When considering the application article 22 shall apply.

(4) Within 30 days after the receipt of the application with the enclosed documents the Interdepartmental Council shall enter the amendment in the register and shall issue a current certificate.

Article 27. The Interdepartmental Council shall refuse to do a registration when:

1. the application and the required documents attached to it do not correspond to the requirements of article 21, paragraph 5;
2. the application for registration has been submitted before the expiry of the term under article 22, paragraph 5.

Article 28. The registration shall be terminated and the issued certificate shall be rendered null and void upon:

1. application in writing by the licensed person;
2. deletion of the registration of the natural or legal person;
3. the demise of the natural person - sole proprietor;
4. placement of the natural person under judicial disability;
5. declaration of the trader bankrupt.

Article 29. (1) The registration shall be deleted if the registered person:

1. has presented false documents or incorrect information which have served as a basis for the registration or for entering amendments to the register;
2. has carried out systematic infringements of this act;
3. or a person who represents him pursuant to the commercial registration has been convicted with an effective sentence for crime of a general nature.

(2) The registration shall be deleted upon a decision of the Interdepartmental Council.

(3) The decision under paragraph 2 may be appealed against under the procedure of the Code of Administrative Procedure.

(4) The appeal under paragraph 3 shall not prevent the implementation of the administrative act.

(5) Upon deletion of the registration the certificate issued shall be rendered null and void.

Section IV

Licence for Arms Exports, Imports, Transfers, Brokerage

Transactions and Transit

Article 30. (1) Authorizations shall be issued by the Interministerial Commission for a specific term.

(2) Authorizations for exports, imports, transfers of arms shall be issued to natural and legal persons possessing an activity authorization under article 9.

(3) Authorizations for imports and transfers for the own needs of the Ministry of Defence and the Ministry of Interior as well as for exports and transfers of arms under claims related to authorised transactions of the Ministry of Defence and the Ministry of Interior shall be issued under a procedure determined in the regulation on the application of this act.

(4) Authorizations for brokerage transactions with arms shall be issued to natural and legal persons registered for brokerage by the Interdepartmental Council.

(5) Authorizations for temporary exports with re-import or for temporary imports with re-export for participation in trade exhibitions shall be issued to natural and legal persons possessing an activity authorization under a procedure determined in the regulation on the application of this act.

(6) Licences for transiting arms through the territory of the Republic of Bulgaria shall be issued on a case-by-case basis under a procedure determined in the regulation on the application of this act.

(7) The Interministerial Commission shall adopt decisions with a two-thirds majority of all Commission members in the cases when representatives of all ministries and agencies represented on the Commission are in attendance. The Interministerial Commission shall adopt unanimous decisions in the cases when representatives of all ministries and agencies represented on the Commission are not in attendance. As an exception a decision can be adopted in absentia if the minutes have been signed with the same opinion by two-thirds of all Interministerial Commission members in the cases when they represent all ministries and agencies represented on the Commission. In case the minutes for taking a decision in absentia has not been signed by a representative of a ministry or an agency represented on the Commission, the decision shall be adopted only if all remaining members are of the same opinion.

(8) Licences shall be issued for a term of up to one year and they may be prolonged only once for a term of up to six months, this term not exceeding the activity authorization or registration term.

(9) Licences under paragraphs 2, 3, 5 and 6 shall be issued in four copies. The first copy shall be given to the applicant, the second shall be sent to the National Security Service of the Ministry of Interior, the third shall be sent to the Central Customs Administration of the Customs Agency and the fourth shall remain in the Interdepartmental Commission.

(10) A licence may be used only by the person to whom it was issued.

Article 31. (1) The persons applying for a licence shall present to the Interministerial Commission a sample application and documents certifying:

1. the parties to the specific transaction and their right to engage in the respective activities;

2. the type and origin of the arms;

3. the transaction or the participation in an exhibition;

4. the end-use, the end-user;

5. the supply terms.

(2) The requirements of the type and contents of the documents under paragraph 1 shall be specified in the regulation on the application of this act.

(3) The Interministerial Commission shall adopt a decision on the application within 30 days of the date of its receipt.

(4) If applicable, the Interministerial Commission may require:

1. an inspection of the documents presented, including an inspection through diplomatic channels;

2. additional information relevant to the transaction.

(5) The decision of the Interministerial Commission shall be communicated to the applicant within seven workdays of the date of its adoption.

Article 32. (1) The Interministerial Commission may postpone the adoption of a decision on an application for issuing a licence:

1. when some of the documents provided for in the regulation on the application of this act are missing or the documents presented do not contain the required information;

2. in case it is necessary to carry out an inspection under article 31, paragraph 4;

3. in case it is necessary to receive additional information related to the transaction or the transit carriage.

(2) The Interministerial Commission shall notify the applicant of the postponement and the motives thereof within the term in article 31, paragraph 5.

(3) The postponement under paragraph 1 shall last until the grounds for it have ceased to exist but for a period not exceeding 60 days.

Article 33. Within 5 workdays the Interministerial Commission shall notify the Ministry of Interior and the Central Customs Administration of the Customs Agency of the issued, extended and withdrawn licences.

Article 34. The persons to whom a licence has been issued shall return to the Interministerial Commission the original of the licence within 14 days after the conclusion of the transaction, the transit carriage respectively, or after the expiry of its validity term.

Article 35. (1) If an authorised transaction is not concluded within the deadline in the licence issued, at least 30 days before the expiry of the deadline the applicant may request an extension of the deadline with a substantiated application containing information on the unconcluded part of the transaction and a statement that a change in the conditions under which the licence was issued has occurred.

(2) Within 30 days the Interministerial Commission shall adopt a decision on the application for extending the term of the licence.

Article 36. (1) The licence issued shall be amended and/or supplemented by the Interministerial Commission upon:

1. change in the normative requirements related to the licence.

2. change in the circumstances under which the licence has been issued.

(2) Within 14 days after the occurrence of the change in circumstances under which the licence has been issued the person shall submit to the Interministerial Commission an application for amending and/or supplementing the licence.

(3) The documents certifying the change and a document on paid state fees shall be enclosed with the application under paragraph 2.

(4) Within 30 days after the receipt of the application with the documents enclosed the Interministerial Commission shall adopt a decision on amending and/or supplementing the licence.

Article 37. (1) The Interministerial Commission shall deny the issue of a licence with a substantiated decision when:

1. circumstances exist that contradict the objectives and obligations in article 1, paragraph 2;

2. the application and the documents enclosed with it do not correspond to the requirements provided for in the regulation on the application of this act after the expiry of the deadline under article 32, paragraph 3;

3. inconsistency exists between the stated and the actual circumstances of the transaction or the transit carriage;

4. the application is submitted before the expiry of the term under paragraph 2 and under article 38, paragraph 2.

(2) In case of denial under paragraph 1 the person shall not be eligible for issue of a new licence for a period of three months after the date of denial.

(3) The denial may be appealed against under the procedure of the Administrative Procedure Code.

(4) The appeal under paragraph 3 shall not prevent the implementation of the administrative act.

Article 38. (1) The Interministerial Commission shall withdraw an issued licence:

1. when circumstances occur which contradict the objectives and obligations specified in article 1, paragraph 2;

2. when the activity that is performed does not correspond to the terms specified in the licence issued;

3. when the applicant has failed to comply with an obligation provided for herein which failure has been established with an act of a competent authority;

4. when the applicant has presented false documents or incorrect information which have served as grounds for issuing the licence;

5. in case of suspension, withdrawal or termination of the arms export, import and transfer licence, or on the termination or deletion of the arms brokerage registration respectively.

(2) When the licence under paragraph 1 is withdrawn the person shall not be eligible to apply for issuing an identical licence for a period of three months after the date of its withdrawal.

(3) The rights under an issued licence, withdrawn under the procedure of paragraph 1, items 1 or 5 may be restored before the expiry of the term under paragraph 2 on the request of the applicant in case the circumstances for them have ceased to exist.

(4) The decision on withdrawing a licence may be appealed against under the procedure of the Code of Administrative Procedure.

(5) The appeal under paragraph 4 shall not prevent the implementation of the administrative act.

Chapter Three

TERMS AND PROCEDURES FOR EXERCISING CONTROLS ON EXPORTS. IMPORTS

AND TRANSFER OF DUAL-USE ITEMS AND BROKERAGE WITH THEM

Section I

Scope of the Controls over Exports of Dual-Use Items

Article 39. The provisions of this chapter relating to export controls shall be applied in as much as Regulation 1334/2000 or other laws do not provide otherwise.

Article 40. (1) Licence for export of dual-use items shall be required for:

1. dual-use items specified in Annex I of Regulation 1334/2000;

2. dual-use items beyond the ones specified in Annex I of Regulation 1334/2000 when the conditions under article 4, paragraphs 1-5 of the said Regulation exist;

3. dual-use items specified with an act of the Council of Ministers beyond the ones specified in Annex I of Regulation 1334/2000 which present a threat to public safety and human rights.

(2) The Interministerial Commission shall issue licences for transfers within the Community from the territory of the Republic of Bulgaria in compliance with article 21 of Regulation 1334/2000.

Article 41. The exports of dual-use items shall include all regimes and activities specified in article 2 of Regulation 1334/2000.

Article 42. (1) The Interministerial Commission shall apply the measures specified in Regulation 1334/2000 as if assigned to a member-state.

(2) The Interministerial Commission shall:

1. issue export licences for dual-use items and for transfer of dual-use items within the Community from the territory of the Republic of Bulgaria;
2. cooperate with the other bodies and institutions competent in the export control field in the Republic of Bulgaria;
3. cooperate with the competent bodies of the Community and the member-states;
4. cooperate with the international institutions and the authorities of other states having responsibilities in the field of dual-use items export controls;
5. provide information in compliance with the obligations herein and in Regulation 1334/2000;
6. establish and maintain a public register of the persons registered for exports, imports and transfers of dual-use items.

Section II

Exports of Dual-Use Items

Article 43. (1) Exports of dual-use items may be performed by natural and legal persons after having registered with the Interministerial Commission under a procedure specified in the regulation on the application of this act.

(2) For carrying out the registration the persons under paragraph 1 shall present to the Interministerial Commission the documents under article 21, paragraph 1, items 1, 2, 5, 6, 7, 8, 10, 11 and 12.

(3) Registration for export shall be done by the Interministerial Commission for a term of three years and every subsequent registration shall be done for the same term.

(4) Within 30 days after receiving the applications the Interministerial Commission shall carry out the registration and shall issue a certificate according to a sample approved in the regulation of the application of this act.

(5) The Interministerial Commission shall deny registration when the application and the required documents attached to it do not comply with the requirements under paragraph 2.

(6) In case the circumstances entered in the register under article 42, paragraph 2, item 6 have changed the registered person shall be obliged to submit an application to the Interministerial Commission within 14 days of the occurrence of the change

(7) In order to enter the change the documents certifying the change and a document on paid state fees shall be attached to the application under paragraph 1.

(8) Within 30 days after receiving the application with the documents attached the Interministerial Commission shall enter the change in the register and shall issue a current certificate.

Article 44. (1) For exports of dual-use items specified in Annex I of Regulation 1334/2000 an export licence shall be issued by the Interdepartmental Commission.

(2) For exports of dual-use items to the countries specified in Annex II of Regulation 1334/2000 a general Community export licence shall be applied pursuant to article 6 of Regulation 1334/2000.

(3) The export licence under paragraph 1 may be an individual export licence, a global export licence or a general export licence.

(4) An individual licence shall be issued for exports of dual-use items specified in Annex I of Regulation 1334/2000 for a specific state through a single delivery or partial deliveries on the basis of contractual relations between the exporter and the foreign contractor as well as for transfers into the Community of dual-use items from Annex IV of Regulation 1334/2000. The licence issued shall have a validity term of one year and may be extended once for a term of up to six months.

(5) A global licence shall be issued for exports of a certain type or category of dual-use items specified in Annex I of Regulation 1334/2000, with the exception of items specified in Part 2 of Annex II of Regulation 1334/2000, which is valid for exports to one or more states and for transfers into the Community of dual-use items specified in Part 1 of Annex IV of Regulation 1334/2000. The licence issued shall have a validity term of two years and may be extended once for a term of up to one year.

(6) A general licence shall be issued to exporters under article 43 for exports of dual-use items from Annex I of Regulation 1334/2000, with the exception of items specified in Part 2 of Annex IV of Regulation 1334/2000, and for transfers into the Community of dual-use items specified in Part 1 of Annex IV of Regulation 1334/2000.

(7) When issuing a general export licence the Interministerial Commission shall inform exporters that the licence cannot be used when the items are, or may be, intended in whole or in part for use in the cases under article 4, paragraphs 1-5 of Regulation 1334/2000.

Article 45. (1) The application for issuing a licence shall be submitted by the exporter to the Interministerial Commission in compliance with the regulation on the application of this act. The exporter shall be liable for the truthfulness of the stated information.

(2) The person applying for export licence shall present to the Interministerial Commission a sample application and documents certifying:

1. the parties to the specific transaction and their entitlement to engage in the respective activities;

2. the type and origin of the dual-use items;

3. the end-use, the end-user;

4. the delivery terms.

(3) The requirements on the type and contents of the documents under paragraph 2 shall be specified in the regulation on the application of this act.

(4) The Interministerial Commission shall adopt decisions on the submitted applications within 30 days after their receipt.

(5) The decision shall be communicated to the applicant within seven days of the date of adopting the decision.

(6) As appropriate, the Interministerial Commission may require also the opinion of other state authorities as well as involve experts to provide opinions on issues where special knowledge is required.

Section III

Brokerage with Dual-Use Items

Article 46. (1) Natural and legal persons registered under the Commerce Act may perform brokerage with dual-use items from Annex IV of Regulation 1334/2000 and with dual-use items specified by the Council of Ministers, after having registered under this act.

(2) Brokerage registration shall be done by the Interdepartmental Council for a period of three years after the expiry of which a subsequent registration shall be done for the same period.

(3) The persons under paragraph 1 applying for registration shall present to the Interdepartmental Council the documents under article 21, paragraph 1.

(4) The persons under paragraph 1 shall be issued a registration certificate by the Interdepartmental Council.

(5) The Interdepartmental Council shall establish and maintain a public register of the persons who have received registration for engaging in brokerage with dual-use items.

Article 47. (1) The Interdepartmental Council shall carry out the registration within 30 days after the date of receiving the applications.

(2) In case omissions and/or irregularities are established in the presented documents the Secretary of the Interdepartmental Council shall notify the applicant in writing within seven workdays to remove them and shall issue guidelines on their removal. In this case the deadline under paragraph 1 shall cease to run as of the date of sending the notification to the applicant and shall be resumed as of the date of arrival of the documents certifying the removal of the omissions and/or irregularities.

(3) The decision on registration or the denial shall be communicated to the applicant within seven days of the date of adopting the decision.

Article 48. Within five workdays the Interdepartmental Council shall notify the Ministry of Interior and the Interministerial Commission on the registrations done.

Article 49. (1) In case the circumstances entered into the register under article 46, paragraph 5 have changed the registered person shall be obliged within 14 days after the occurrence of the change to submit an application to the Interdepartmental Council.

(2) The documents attesting to the change and a document of paid state fees shall be attached to the application under paragraph 1.

(3) When considering the application article 47, paragraph 2 shall apply.

(4) Within 30 days after receiving the application with the enclosed documents the Interdepartmental Council shall enter the change in the register and shall issue a current certificate.

Article 50. The Interdepartmental Council shall deny a registration when any of the documents under article 46, paragraph 3 is missing.

Article 51. The Interdepartmental Council shall delete the registration:

1 upon the occurrence of circumstances contradicting the objectives and obligations specified in article 1, paragraph 2;

2. upon failure to implement or upon infringement of the registration terms;

3. upon failure to implement an obligation provided for herein, established with an act of a competent state authority;

4. when the registered person has submitted inaccurate information which has served as grounds for doing the registration.

Article 52. The Interdepartmental Council shall terminate the registration upon:

1. expiry of the term;

2. its deletion;

3. request by the registered person;

4. termination of the operation of the registered person;

5. demise of the registered natural person.

Article 53. (1) The denial of a registration or the deletion of a registration may be appealed against under the procedure of the Code of Administrative Procedure.

(2) The appeal under paragraph 1 shall not prevent the implementation of the administrative act.

Section IV

Transfers of Dual-Use Items

Article 54. (1) Transfers of dual-use items from the territory of the Republic of Bulgaria to the territory of another member-state may be done by natural and legal persons

following a registration with the Interministerial Commission under a procedure specified in the regulation on the application of this act.

(2) In order to obtain a registration the persons under paragraph 1 shall present to the Interministerial Commission the documents under article 21, paragraphs 1, items 1, 2, 5, 6, 7, 8, 10, 11 and 12.

(3) Within 30 days after receiving the application the Interministerial Commission shall do the registration and shall issue a certificate according to a sample contained in the regulation of the application of this act.

(4) The registration for transfers shall be done by the Interministerial Commission for a period of three years after the expiry of which any subsequent registration shall be done for the same period.

(5) The Interministerial Commission shall deny registration when the application and the required documents attached to it do not correspond to the requirements of paragraph 2.

(6) In case the circumstances entered into the register under article 42, paragraph 2, item 6 have changed the registered person shall be obliged within 14 days after the occurrence of the change to submit an application to the Interdepartmental Commission.

(7) Documents attesting to the change and a document for paid state fees for the registration shall be attached to the application.

(8) Within 30 days after receiving the application with the attached documents the Interministerial Commission shall enter the change in the register and shall issue a current certificate.

Article 55. (1) For the transfer of dual-use items specified in Annex IV of Regulation 1334/2000 from the territory of the Republic of Bulgaria to the territory of another member-state a transfer licence shall be required which shall be issued by the Interdepartmental Commission.

(2) The person applying for transfer licence shall present to the Interministerial Commission a sample application and documents certifying:

1. the parties to the specific transaction and their entitlement to engage in the respective activities;
2. the type and origin of the dual-use items;
3. the end-use, the end-user;
4. the delivery terms.

(3) The requirements on the type and contents of the documents under paragraph 2 as well as the terms and the procedure for issuing a transfer licence shall be determined in the regulation on implementing this act.

(4) No general transfer licence shall be issued for the items specified in Part 2 of Annex IV of Regulation 1334/2000.

(5) The Council of Ministers may specify dual-use items not contained in Annex IV of Regulation 1334/2000 for which transfer licence shall be required.

(6) The Interministerial Commission shall issue transfer licence for dual-use items not specified in Annex IV of Regulation 1334/2000 when at the moment of transfer the conditions of article 21, paragraph 2(a) of the said regulation exist.

(7) In case of transfers of dual-use items included in Category 5, Part 2 of Annex I of Regulation 1334/2000 and not specified in Annex IV of Regulation 1334/2000 from the territory of the Republic of Bulgaria to the territory of another member-state the Interministerial Commission may require from the person engaged in the transfer additional information on the items.

Section V

Imports of Dual-Use Items

Article 56. Imports of dual-use items from Annex IV of Regulation 1334/2000 to the territory of the Republic of Bulgaria from third countries may be performed by natural and legal persons after registering the imports by the Minister of Economy and Energy or by officials authorized by him/her under a procedure specified in the regulation of the application of this act.

Article 57. (1) The Council of Ministers may specify a list of dual-use items not included in Annex IV of Regulation 1334/2000 for which import registration shall be required.

(2) The certificate for registering imports under article 56 shall be issued for imports of dual-use items specified in Annex IV of Regulation 1334/2000 or for such specified by the Council of Ministers under paragraph 1 from a third country through a single delivery or through partial deliveries on the basis of contractual relations between the importer and the foreign contractor. The certificate issued shall be with a term of one year and may be extended once for a term of up to six months.

(3) The person applying for an import certificate shall present to the Ministry of Economy and Energy documents certifying:

1. the parties to the specific transaction and their entitlement to engage in the respective activities;
2. the type and origin of the dual-use items;
3. the end-use, the end-user;
4. the delivery terms.

(4) The requirements on the type and contents of the documents under paragraph 3 shall be determined in the regulation on implementing this act.

(5) The registration of the transactions under article 56 and under this article shall be done within seven days after the date of receiving the documents.

Section VI

Issue, Denial, Postponement, Amendment and Extension of Licences

Article 58. The Interministerial Commission shall adopt decisions with a two-thirds majority of all Commission members in the cases when representatives of all ministries and agencies represented on the Commission are in attendance. The Interministerial Commission shall adopt unanimous decisions in the cases when representatives of all ministries and agencies represented on the Commission are not in attendance. As an exception a decision can be adopted in absentia if the minutes have been signed with the same opinion by two-thirds of all Interministerial Commission members in the cases when they represent all ministries and agencies represented on the Commission. In case the minutes for taking a decision in absentia has not been signed by a representative of a ministry or an agency represented on the Commission the decision shall be adopted only if all remaining members are of the same opinion.

Article 59. (1) The licence under articles 44, 55 and the certificate under article 56 shall be issued in four copies. The first copy shall be given to the applicant, the second shall be sent to the National Security Service of the Ministry of Interior, the third shall be sent to the Central Customs Administration of the Customs Agency and the fourth shall remain in the Interdepartmental Commission.

(2) The licence may be used only by the person to whom it has been issued.

Article 60. Within five workdays the Interministerial Commission shall notify the Ministry of Interior and Central Customs Administration of the Customs Agency of the issued, extended, amended and withdrawn licences.

Article 61. The persons to whom a licence has been issued shall return to the Interministerial Commission the original of the licence after the conclusion of the transaction

or after the expiry of its validity term but not later than 14 days after the expiry of the licence term. The person to whom the licence was issued shall notify forthwith the Interministerial Commission in case the licence will not be used. In this case the person shall present in writing to the Interministerial Commission the reasons for not using the licence and shall return the licence.

Article 62. (1) The persons applying for licence shall present to the Interministerial Commission a sample application and the required documents specified in the regulation on the application of this act.

(2) The Interministerial Commission shall adopt decisions on the applications within 30 days after the date of their receipt.

(3) As appropriate, the Interministerial Commission may require:

1. an inspection of the documents presented, including an inspection through diplomatic channels;
2. additional information relevant to the transaction.

(4) The decision of the Interministerial Commission shall be communicated to the applicant within seven workdays after the date of its adoption.

Article 63. (1) The Interministerial Commission may postpone the adoption of a decision on an application for issuing a licence:

1. when some of the documents provided for in the regulation on the application of this act are missing or the documents presented do not contain the required information;
2. in case its is necessary to carry out an inspection under article 62, paragraph 3, item 1;
3. in case its is necessary to receive additional information related to the transaction or the transit carriage.

(2) The Interministerial Commission shall notify the applicant of the postponement and the motives thereof within the term in article 62, paragraph 4.

(3) The postponement under paragraph 1 shall last until the grounds for it have ceased to exist but for a period not exceeding 60 days.

Article 64. (1) If an authorised transaction is not completed within the term of the licence issued, at the latest 30 days before the expiry of the term the applicant may request extension of the term with a substantiated application containing information on the incomplete part of the transaction and a statement that no change has occurred in the terms under which the licence had been issued.

(2) Within 30 days after the receipt of the application the Interministerial Commission shall adopt a decision on the application for extending the term of the licence.

Article 65. (1) The issued licence shall be amended and/or supplemented by the Interministerial Commission upon:

1. change in the normative requirements related to the licence.
2. change in the circumstances under which the licence has been issued.

(2) Within 14 days after the occurrence of the change in circumstances under which the licence had been issued the person shall notify the Interdepartmental Commission

(3) Within 30 days the Interministerial Commission shall adopt a decision on the application for amending and/or supplementing the licence.

Article 66. (1) The Interministerial Commission shall deny the issue of a licence with a substantiated decision when:

1. circumstances exist that contradict the objectives and obligations in article 1, paragraph 2 or the ones specified in article 8 of Regulation (EC) No. 1334/2000;
2. the application and the documents enclosed with it do not correspond to the requirements provided for in the regulation on the application of this act;

3. inconsistency exists between the stated and the actual circumstances of the transaction;

4. the stated end-use and end-user in the application for issuing an export licence cannot guarantee that the dual-use items will not be used for development, manufacture, use, maintenance, storage, detection, identification or proliferation of chemical, biological or nuclear weapons or other nuclear explosive devices or for the development, manufacture, maintenance or storage of missiles capable of carrying such weapons;

5. the terms provided for in other normative acts have not been complied with.

(2) In case of denial under paragraph 1 the person shall not be eligible to apply for a new licence for a period of three months after the date of denial.

(3) The denial may be appealed against under the procedure of the Code of Administrative Procedure.

(4) The appeal under paragraph 3 shall not prevent the implementation of the administrative act.

Article 67. (1) The Interministerial Commission shall withdraw an issued licence when:

1. circumstances occur which contradict the objectives and obligations specified in article 1, paragraph 2;

2. the activity that is performed does not correspond to the terms specified in the licence issued;

3. the applicant has failed to comply with an obligation provided herein, which failure has been established with an act of a competent authority;

4. the applicant has presented false documents or incorrect information which have served as grounds for issuing the licence;

5. the registration for brokerage with dual-use items has been suspended or deleted.

(2) When the licence under paragraph 1 is withdrawn the persons shall not be eligible to apply for issuing a new licence for a period of three months after the date of its withdrawal.

(3) A licence issued under the procedure of paragraph 1, item 1 or 5 may be restored before the expiry of the term under paragraph 2 on the request of the applicant in case the circumstances about them have ceased to exist.

(4) The decision on withdrawing a licence may be appealed against under the procedure of the Code of Administrative Procedure.

(5) The appeal under paragraph 4 shall not prevent the implementation of the administrative act.

Chapter Four

PROVISION OF TECHNICAL ASSISTANCE FOR MILITARY END-USE

Article 68. (1) Provision of technical assistance for military end-use pursuant to Joint Action of the Council 2000/401/CFSP may be performed by natural and legal persons registered under the Commerce Act. For the purposes herein the provision of technical assistance shall be deemed as exports.

(2) Export licence shall be issued for provision of technical assistance by the Interministerial Commission with a validity term of one year which may be extended once for a period of up to six months.

(3) Export licence shall be required in cases of provision of technical assistance outside the Community and when the technical assistance is related to movement of people and is intended, or the person providing it knows that it is intended, for:

1. development, manufacture, use, maintenance, storage, detection, identification or proliferation of chemical, biological or nuclear weapons or other nuclear explosive devices or

for the development, manufacture, maintenance or storage of missiles capable of carrying such weapons; or

2. military end-use different from the one under item 1 in a state which is the object of arms embargo introduced with a common position or a common action adopted by the Council of the European Union or with a decision of the Organisation for Security and Cooperation in Europe, or of an arms embargo imposed by a binding resolution of the United Nations Security Council.

(4) No export licence for provision of technical assistance shall be required when it is being provided:

1. to a state included in the list in Part 3 of Annex II of Regulation 1334/2000;

2. in the form of generally accessible information or as part of a base scientific research as these terms have been defined in the international export control regimes, organisations or contracts;

3. orally and is not related to dual-use items controlled by one or more international regimes, organisations or contracts;

(5) Export licences for provision of technical assistance shall be issued by the Interministerial Commission under the procedure determined for issuing export licences for exports of dual-use items and technologies.

(6) The denial, postponement, amendment, withdrawal and extension of export licences for provision of technical assistance shall be done under the procedure of Chapter Three, Section VI.

(7) The export licence for provision of technical assistance shall not be intended for customs purposes.

(8) The person who is using an export licence for provision of technical assistance shall be obliged to notify the Interministerial Commission not later than five workdays after carrying out the exports.

Chapter Five

OBLIGATIONS OF THE PERSONS ENGAGED IN ACTIVITIES WITH ARMS AND DUAL-USE ITEMS

Article 69. The persons engaged in activities with arms and dual-use items under this act shall be obliged:

1. to introduce internal rules for the organisation and control of the activities performed by them specified in the regulation on implementing this act;

2. to keep a separate register for the transactions they conclude under this act and to keep for at least ten years the commercial and shipping documents and the information related to performing the respective activity, containing sufficient information on:

a) the type of arms or dual-use items and their respective identification such as: serial number, certificate, specification;

b) the quantity of the items;

c) the name and address of the exporter and the recipient;

d) the end-use and the end-user of the items;

3. to provide information and data under paragraph 2 on a request by the supervisory authorities under article 71 and to assist in conducting inspections by them;

4. to provide to the Interministerial Commission within the deadlines specified the information and documents required by this act and by the regulation on its implementation and related to the implementation of the activities authorised by it;

5. to comply with the terms under which this activity is permitted;

6. to specify the name, official position and the address of the representatives of the party to the transaction and of the end-user responsible for the implementation of the obligations under the transaction and to inform forthwith of any replacement of them;

7. to inform the Interministerial Commission if the conditions specified in article 40 exist;

8. to mark on the documents under item 2 and on the document presented to the customs authorities the number of the licence issued.

Article 70. (1) Exporters of arms or dual-use items and the persons engaged in transfers with them shall be obliged to include in the foreign trade contract a clause and in the sale invoice a text obliging the importer and/or the end-user not to transfer or re-export the arms and/or the dual-use items to other natural or legal persons without the agreement in writing of:

1. the Interministerial Commission or the national competent authority of the state - in case of subsequent re-export, and in case of export/transfer for states which are parties to the Vasenaar agreement;

2. the Interministerial Commission in case of exports to states which are not parties to the Vasenaar agreement;

(2) In order to certify the end-use and the end-user the persons engaged in exports or transfers of arms shall present to the Interministerial Commission an end-use/end-user certificate and/or an international import certificate issued by the competent authorities of the end-user state.

(3) In order to certify the end-use and the end-user the persons engaged in exports or transfers of dual-use items shall present to the Interministerial Commission an end-use/end-user certificate and/or an end-use/end-user application, and/or an international import certificate issued by the competent authorities of the end-user state.

(4) Exporters of arms or dual-use items shall be obliged to present to the Interministerial Commission a certificate of an effected delivery or an equivalent document issued by the competent authorities of the end-user state and confirming that the supply has been effected, not later than three months after the delivery date in the end-user state.

(5) If the competent authorities of the exporter's state or the exporter require from the Bulgarian exporter an international import certificate and/or an end-use/end-user certificate and/or a certificate of effected delivery these documents shall be issued under terms and procedures determined in the regulation on implementing this act.

Chapter Six

CONTROLS OVER COMPLIANCE WITH THE REGIME FOR THE ACTIVITIES WITH

ARMS AND WITH DUAL-USE ITEMS AND TECHNOLOGIES

Article 71. (1) Controls over the implementation of this act shall be exercised by the Interdepartmental Council, the Interdepartmental Commission, the Minister of Economy and Energy, the Minister of Interior and the Director of the Customs Agency or by official authorised by them.

(2) The controls shall include inspections before and after the issue of an activity authorization, a licence or a registration.

(3) When exercising control the authorities under paragraph 1 may:

1. require from the persons engaged in activities with arms and/or dual-use items the information and data needed for the exercise of the controls;

2. require the opinion of other state authorities, as appropriate;

3. visit the border control areas and the sites for storing goods under customs supervision on the territory of the Republic of Bulgaria under the terms and procedures of applicable law;

4. enter the premises of persons engaged in activities with arms and with dual-use items under the terms and procedures of applicable law;

5. address requests to the competent authorities of other states for providing information needed for exercising controls;

6. provide information related to exercising controls in response to requests from other states and international organisations in compliance with international obligations undertaken by the Republic of Bulgaria;

(4) The control bodies shall be obliged not to disclose official, business and commercial secrets of the inspected persons unless this is required pursuant to international obligations undertaken by the Republic of Bulgaria;

(5) Representatives of a foreign state may take part in exercising controls in compliance with the international obligations undertaken by the Republic of Bulgaria on the basis of international agreements or participation in international organisations.

(6) The Interministerial Commission may require from the importer to include in the contract a clause allowing physical inspection by officials authorised by it of the delivery in the end-user state.

Article 72. (1) The customs authorities may stop exports or prevent, as appropriate, the departure from the Community customs territory through the borders of the Republic of Bulgaria of arms and/or dual-use items under Annex I of Regulation 1334/2000 in cases when:

1. information relevant to the transaction has not been taken into consideration when the licence was issued;

2. circumstances have changed significantly after the issue of the licence; or

3. this has been requested by a control body under article 71 or by a competent authority of a member-state.

(2) The customs authorities shall notify forthwith the Interministerial Commission of the termination of the exports or of the prevention of the departure from the Community customs territory with a proposal to conduct consultations. Holding consultations related to dual-use items and technologies shall take place pursuant to article 12, paragraph 4 of Regulation 1334/2000.

Article 73. (1) The Director of the Customs Agency may specify customs offices in which customs formalities will be carried out for activities with arms and dual-use items under this act.

(2) The Customs Agency shall provide information to the European Commission on the customs offices specified under paragraph 1.

Article 74. (1) The Interdepartmental Council and the Interministerial Commission shall present to the Council of Ministers reports on the implementation of this act in the field of their competences for the elapsed calendar year by 30 June of the next calendar year.

(2) The Council of Ministers shall present the reports under paragraph 1 to the National Assembly.

(3) The reports under paragraph 1 shall be published in the established format of the consolidated report of the European Union on the implementation of the European Union Code of conduct on Arms Exports published annually in the Official Journal of the European Union.

Article 75. (1) Fees shall be collected in amounts determined with a tariff adopted by the Council of Ministers for considering applications and issuing licences, registrations,

licences and certificates, for extending the validity terms of issued licences, for amending and supplementing issued licences.

(2) The Minister of Economy and Energy shall administer the revenues from the fees under this act.

Chapter Seven

ADMINISTRATIVE PENAL PROVISIONS

Article 76. Persons who engage in exports, imports, transfers, brokerage, transport and/or transit of arms without the respective licence, registration or authorization shall be sanctioned with:

1. a fine from BGN 5,000 to BGN 50,000 - for natural persons as well as for officials of commercial companies in case the committed act does not constitute a crime;
2. a property sanction amounting from BGN 25,000 to BGN 250, 000 - for legal persons and sole proprietors;
3. a fine or a property sanction amounting from BGN 50,000 to BGN 500,000 - for an established repeated infringement.

Article 77. Persons who engage in exports, imports, transfers, brokerage, transport and/or transit of dual-use items without the respective licence or authorization shall be sanctioned with:

1. a fine from BGN 5,000 to BGN 50,000 - for natural persons as well as for officials of commercial companies in case the committed act does not constitute a crime;
2. a property sanction amounting from BGN 25,000 to BGN 250,000 - for legal persons and sole proprietors;
3. a fine or a property sanction amounting from BGN 50,000 to BGN 500,000 - for an established repeated infringement.

Article 78. Persons who engage in activities in contravention to the scope and the terms of an issued licence or fail to present documents, data, information and reports or obstruct and/or refuse access of an official exercising controls under this act shall be sanctioned with:

1. a fine from BGN 1,000 to BGN 10,000 - for natural persons as well as for officials of commercial companies in case the committed act does not constitute a crime;
2. a property sanction amounting from BGN 5,000 to BGN 50,000 - for legal persons and sole proprietors;
3. a fine or a property sanction amounting from BGN 10,000 to BGN 100,000 - for an established repeated infringement.

Article 79. Persons who fail to comply with their obligations under articles 69 and 70 shall be sanctioned with:

1. a fine from BGN 2,000 to BGN 20,000 - for natural persons as well as for officials of commercial companies in case the committed act does not constitute a crime;
2. a property sanction amounting from BGN 10,000 to BGN 100,000 - for legal persons and sole proprietors;
3. a fine or a property sanction amounting from BGN 20,000 to BGN 200,000 - for an established repeated infringement.

Article 80. (1) The acts on establishing the infringements shall be drawn up by the officials appointed by the respective control body under article 71, paragraph 1.

(2) Penal ordinances shall be issued by the control body under paragraph 1 which has established the infringement or by an official authorised by it.

(3) The establishment of infringements, the issue, appeal and enforcement of the penal ordinances shall be done under the procedure of the Administrative Violations and Sanctions Act.

Article 81. The revenues from fines and property sanctions imposed under this act shall be accounted to the budget of the control body under article 71, paragraph 1, which has issued the respective penal ordinance.

SUPPLEMENTARY PROVISIONS

§ 1. In exceptional cases where a threat to national security of the country might arise, to violating its foreign policy interests or to the implementation of international obligations undertaken by it, the Council of Ministers may prohibit the imports, exports, transfers, re-exports or the transit carriage of arms and dual-use items regardless of the issued licences or licences.

§ 2. In the meaning herein:

1. "Exports" shall be the term under article 2(b) of Regulation 1334/2000.
2. "Exporter" shall be the term under article 2(c) of Regulation 1334/2000.
3. "Export Statement" shall be the term under article 2(d) of Regulation 1334/2000.
4. "Imports" shall be any introduction into the customs territory of the Republic of Bulgaria of arms and dual-use items and technologies which have the status of non-Community goods including their placement under any customs regimes.
5. "Non-Community Goods" shall be goods in the meaning of article 4, item 8 of Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code.
6. "Transfer to the Community" shall mean transfer of arms and/or dual-use items or technical assistance from and to the territory of the Republic of Bulgaria without leaving the customs territory of the Community.
7. "Arms Transit" shall be the transit of arms through the territory of the Republic of Bulgaria including their reloading from one transport means to another
8. "Brokerage" shall mean activity performed by natural and legal persons registered under the Commerce Act, which includes negotiating or realising a commercial transaction with arms or with a dual-use item as well as the sale or transfer of arms or a dual-use item which is their property from the territory of one state to another third state.
9. "Dual-Use Item" shall be the term under article 2(a) of Regulation No. 1334/2000.
10. "Technology" shall be technical information needed for the development, manufacture or use of items. This information has the form of technical data or technical assistance. The technical data may be in the form of projects, drawings, diagrams, models, formulae, tables, engineering blueprints and specifications, commands either in writing or saved on a different carrier.
11. "Technical Assistance" shall be the term under article 1 (a), (b) of the Council Joint Action 2000/401/CFSP.
12. "Military End-Use" shall be the term under article 4, paragraph 2 (a), (b), (c) of Regulation No. 1334/2000.
13. "Member-state" shall be a state which is a member of the European Union.
14. "Third Country" shall be a state which is not a member of the European Union.
15. "International Export Control Regimes, Organisations or Agreements" shall be the term under article 1 (c) of the Council Joint Action 2000/401/CFSP.
16. "Reliability" of persons for engaging in the activities herein shall exist when:
 - a) they have established the needed organisation for keeping the arms according to the requirements of applicable law;
 - b) they have cleared with the security authorities a list of the natural persons who are involved directly in the activities with arms under this act;
 - c) the manager, members of the managing or supervisory body or (a) natural person(s) under letter "b" have not been convicted with an effective sentence for a crime of a general nature;

d) there is no information that the manager, members of the managing or supervisory body or (a) natural person(s) involved directly in the activities herein present a threat to national security, the economic and foreign policy interests of the Republic of Bulgaria, to strengthening international peace and security and to the implementation of the Republic of Bulgaria's international obligations.

The circumstances under letters "a" - "d" shall be certified with a letter from the respective competent authority.

17. "Economic Soundness" of the trader for performing the activities herein shall exist when:

a) he has not been declared bankrupt or is not in the course of opened bankruptcy proceedings;

b) no entry has been made on termination of operations or declaring liquidation;

c) he has no liquid and pending public liabilities or they have been rescheduled or secured;

d) he has no liquid and pending liabilities to natural or legal persons when the liability has been acknowledged before the enforcement authority.

18. "Repeated Infringement" shall be an infringement committed within one year after the entry into force of the penal ordinance with which a sanction was imposed for the same infringement.

19. "Systematic infringement" shall be the perpetration of three or more infringements of the same kind in the course of two years for which administrative sanctions have been imposed on the persons with effective penal ordinances.

TRANSITIONAL AND FINAL PROVISIONS

§ 3. The Control of Foreign Trade in Weapons and Goods and Technology with Possible Dual Use Act (Promulgated, State Gazette No. 102/21.11.1995, amended, SG No. 75/2002, No. 93/2004) shall be repealed.

§ 4. (1) The activity authorizations issued for performing brokerage with arms or with dual-use items and technologies to natural and legal persons as of the date of entry into force of this act shall be terminated. Within 90 days after the entry into force of this act the natural and legal persons registered under the Commerce Act possessing licences for brokerage with arms and dual-use items and technologies may submit applications for registration of brokerage with arms and dual-use items and technologies to the Interdepartmental Council by presenting the documents under article 21, paragraph 1, items 2-11. No state fees shall be collected for the registration.

(2) The activity authorizations issued for foreign trade operations with arms and for transporting arms shall keep their validity until the expiry of the term for which they have been issued. Within 90 days after the entry into force of this act the natural and legal persons possessing licences for foreign trade with arms and for transporting arms may submit applications to the Interdepartmental Council which shall issue licences for entitlement to perform exports, imports and transfers arms and for transporting arms within the scope and the validity of the activity authorizations for foreign trade with arms without presenting the documents under article 10, paragraph 1, items 2-13, article 10, paragraph 3, items 2-14 respectively. No state fees shall be collected for issuing the activity authorization.

(3) The autorizationss issued for exports of dual-use items and technologies shall be terminated as of the date of entry into force of this act. Wthin 90 days after the entry into force of this act the natural and legal persons possessing export licences for dual-use items and technologies may submit applications for registration for export and/or transfer of dual-use items to the Interministerial Commission pursuant to article 43 and 54. No state fees shall be collected for the registration.

(4) The authorizations issued for exports, imports and transit of arms under the repealed Control of Foreign Trade in Weapons and Goods and Technology with Possible Dual-Use Act shall keep their validity until the expiry of the term for which they had been issued.

(5) The issued export licences for possible dual-use items and technologies shall be terminated as of the date of entry into force of this act. The natural and legal persons possessing such licences shall be obliged to return the originals of the issued export licences to the Interdepartmental Commission. These persons may submit applications for issuing licences under article 44, paragraph 4 and article 55, paragraph 1 without paying state fees. The licences issued pursuant to article 44, paragraph 4 and article 55, paragraph 1 shall be with the validity term and the scope of the issued export licences for possible dual-use items and technologies.

(6) The issued import and transit licences for possible dual-use goods and technologies shall preserve their validity until the expiry of the term for which they had been issued.

§ 5. The following amendments shall be made to the Act on the Prohibition of Chemical Weapons and on Control of Toxic Chemicals and the Precursors Thereof (Promulgated in the State Gazette, No. 8/2000, amended No. 75/2002):

1. In article 6, paragraph 6 the word "licence" shall be replaced by "registration for manufacture with the Interministerial Commission for Export Control and Non-Proliferation of Weapons for Mass Destruction with the Minister of Economy and Energy pursuant to the Arms and Dual-Use Items and Technologies Export Control Act, referred to hereinafter the "Interdepartmental Commission".

2. Article 7 shall be amended as follows:

"Article 7. (1) Production, processing or use of chemical weapons specified in Annex No. 2 in quantities which are greater than:

1. one kilogram of the chemical substance marked with "*" in Part A;
2. one hundred kilograms of any other chemical substance of Part A;
3. one ton of a chemical substance of Part B,

shall be done on the basis of a registration for production, processing or use with the Interdepartmental Commission.

(2) The production of a chemical substance specified in Annex No. 3 in a quantity exceeding 30 tons shall be done on the basis of a registration for production with the Interdepartmental Commission.

3. Article 8 shall be amended as follows:

"Article 8. (1) Production through synthesis of organic chemical substances not specified in the annexes with a total quantity of the substances produced in excess of 200 tons per calendar year shall be done on the basis of a registration for production with the Interdepartmental Commission.

(2) Production through synthesis of an organic chemical substance containing phosphorus, sulphur or fluorine with a quantity of the substance produced in excess of 30 tons per calendar year shall be done on the basis of a registration for production with the Interdepartmental Commission."

4. Article 9 shall be amended as follows:

"Article 9. (1) Production, processing or use registration certificates under articles 6, 7 and 8 shall be issued by the Interministerial Commission for a three-year term after the expiry of which any subsequent registration shall be done for the same term.

(2) The persons under articles 6, 7 and 8 applying for production, processing or use registration shall present to the Interministerial Commission documents under terms and procedures specified in a regulation of the Minister of Economy and Energy.

(3) The issue of a production, processing or use registration certificate shall be denied and the issued certificate shall be terminated when:

1. the required information for the issue has not been presented or the presented information is incomplete or inaccurate;
2. the terms under which the certificate was issued have not been met;
3. there are circumstances contradicting the objectives under article 2.
(4) State fees shall be paid for registration for production, processing or use under this act."

5. Article 10 shall be amended as follows:

"Article 10. (1) Exports, imports and transfer of toxic chemical substances and their precursors specified in the annexes shall be done in compliance with the requirements herein and pursuant to the Arms and Dual-Use Items and Technologies Export Control Act.

(2) Exports, imports and transfer from and to the territory of the Republic of Bulgaria of chemical substances from Annex No. 1 shall be permitted when:

1. the end-user is located on the territory of the Republic of Bulgaria or on the territory of another state-party;

2. the end-use is for industrial, agricultural, research, medicinal and protective purposes.

(3) re-export of chemical substances from Annex No. 1 shall be prohibited.

(4) exports, imports and transfers from the territory of the Republic of Bulgaria to states in the Community of chemical substances from Annex No. 2 shall be permitted when the end-use is for purposes not prohibited by the Convention.

(5) Exports and re-exports of chemical substances from Annex No. 2 shall be permitted only if the end-user is on the territory of another state-party;

(6) Exports, imports and transfers from the territory of the Republic of Bulgaria to states in the Community of chemical substances from Annex No. 3 shall be permitted when the end-use is for purposes not prohibited by the Convention.

(7) In case of transfer for the territory of the Republic of Bulgaria from states from the Community of chemical substances from Annex No. 2 and 3 the Bulgarian natural or legal person shall be obliged within seven days before performing the transfer to present to the Interministerial Commission documents under terms and procedures specified in a regulation of the Minister of Economy and Energy.

(8) The Interministerial Commission may require additional information under this article".

6. Article 11 shall be amended as follows:

"Article 11. The body for coordination of the work and control over the implementation of the Convention by the Republic of Bulgaria and for exercising control and authorization functions on the implementation of this act shall be the Interdepartmental Export Control and Weapons of Mass Destruction Non-Proliferation Interministerial Commission with the Minister of Economy and Energy pursuant to the Arms and Dual-Use Items and Technologies Export Control Act".

7. Article 15 shall be amended as follows:

"Article 15. A person producing a chemical substance from Annex No. 3 in quantities exceeding 30 tons shall be obliged to present to the Interministerial Commission twice a year - not later than 1 March and 1 October - information and data on the type and quantity of the chemical substance and the facility where it is being produced."

8. Article 16 shall be amended as follows:

"Article 16. (1) A person producing through synthesis organic chemical substances not specified in the annexes in a total quantity of the substances produced in excess of 200 tons per calendar year shall be obliged to provide to the Interministerial Commission once a year - not later than 1 March - information and data on the type and quantity of the chemical substance and the facility where it is being produced.

(2) A person producing through synthesis an organic chemical substance containing phosphorus, sulphur or fluorine with a quantity of the substance produced in excess of 30 tons per calendar year shall be obliged to provide to the Interministerial Commission once a year - not later than 1 March - information and data on the type and quantity of the chemical substance and the facility where it is being produced.

(3) Paragraphs 1 and 2 shall not apply to facilities producing only explosives and hydrocarbons."

9. In § 2 of the Final Provisions the words "the Council of Ministers shall adopt the regulations" shall be replaced with "the Minister of Economy and Energy shall issue a regulation".

10. In § 3 of the Final Provisions the words "the Council of Ministers" shall be replaced with "the Interdepartmental Commission".

11. Everywhere in the act the word "Minister of Economy", "Control of Foreign Trade in Weapons and Goods and Technology with Possible Dual-Use Act" and "in a regulation adopted by the Council of Ministers" shall be replaced respectively with "Minister of Economy and Energy", "Arms and Dual-Use Items and Technologies Export Control Act" and "in a regulation of the Minister of Economy and Energy".

§ 6. The following amendments shall be made to the Safe Use of Nuclear Energy Act (promulgated, State Gazette No. 63/2002; amended SG, No. 120/2002, No. 70/2004, No. 76, 88 and 105/2005, No. 30/2006):

1. In article 15, paragraph 4, item 13 the words "possible dual-use goods in the meaning of the Control of Foreign Trade in Weapons and Goods and Technology with Possible Dual-Use Act" shall be replaced with "dual-use items in the meaning of the Arms and Items and Technologies with Dual Use Export Control Act".

2. In article 124, paragraph 4 and article 125, paragraph 2 the words "Control of Foreign Trade in Weapons and Goods and Technology with Possible Dual-Use Act" shall be replaced with "Arms and Dual-Use Items and Technologies Export Control Act".

§ 7. In the Explosives, Weapons and Ammunition Control Act (promulgated, State Gazette, No. 133/1998; amended SG No. 85/2000, No. 99/2002, No. 71/2003, No. 102 and 105/2005, No. 17, 30 and 38/2006) in article 19 the words "Control of Foreign Trade in Weapons and Goods and Technology with Possible Dual-Use Act" shall be replaced with "Arms and Dual-Use Items and Technologies Export Control Act".

§ 8. In the Ministry of Interior Act (promulgated, State Gazette, No. 17/2006; amended SG No. 30, 102 and 105/2006) in article 40, paragraph 1, items 12 and 13 the words "possible dual-use goods and technologies" shall be replaced with "dual-use items and technologies".

§ 9. In the Foreigners in the Republic of Bulgaria Act (promulgated, State Gazette, No. 153/1998; amended SG No. 70/1999, No. 42 and 112/2001, No. 45 and 54/2002, No. 37 and 103/2003, No. 37 and 70/2004, No. 11, 63 and 88/2005, No. 30 and 82/2006) in article 10, paragraph 1, item 3 the words "possible dual-use goods and technologies" shall be replaced with "dual-use items and technologies".

§ 10. The following amendments shall be made in the Republic of Bulgaria Defence and Armed Forces Act (promulgated, State Gazette, No. 112/1995; amended SG No. 67/1996, No. 122/1997, No. 70, 93, 152 and 153/1998, No. 12, 67 and 69/1999, No. 49 and 64/2000, No. 25/2001, No. 1, 40, 45 and 119/2002, No. 50, 86, 95 and 112/2003, No. 93 and 111/2004, No. 27, 38, 76, 88, 102 and 105/2005, No. 30, 36, 56, 82, 91 and 102/2006):

1. In article 40, paragraph 6 the words "possible dual-use goods and technologies" shall be replaced with "dual-use items and technologies".

2. In article 40c, paragraph 2 the words "possible dual-use goods and technologies" shall be replaced with "dual-use items and technologies".

§ 11. In the Act Restricting Administrative Regulation and Administrative Control over Economic Activity (promulgated, State Gazette No. 55/ 2003; corrected, No. 59/2003; amended No. 107/ 2003, No. 39 and 52/ 2004 , No. 31 and 87/ 2005 , No. 24, 38 and 59/ 2006) in the annex to article 9, paragraph 1, item 2 "List of economic activities for which a licensing regime may be established" in item 12 the words "possible dual-use goods and technologies" shall be replaced with "dual-use items and technologies".

§ 12. § 12. In the Crisis Management Act (promulgated, State Gazette No. 19/ 2005; amended, No. 17, 30 and 102/2006) in article 45, paragraph 2 the words "possible dual-use goods and technologies" shall be replaced with "dual-use items and technologies".

§ 13. The implementation of this act shall be assigned to the Council of Ministers which shall adopt a regulation on its implementation within one month after its entry into force.

This act was adopted by the 40th national Assembly and has been sealed with the official seal of the National Assembly.