



Ministry
of Foreign Affairs
Republic of Poland



EXPORTS OF ARMS AND MILITARY EQUIPMENT FROM POLAND

2013 Report

Warsaw, 2014

Ministry of Foreign Affairs
of Poland

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AND MILITARY EQUIPMENT
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1. Introduction

For the fifth time, the Ministry of Foreign Affairs (MFA) presents its country report on the export of armaments and military equipment. In a way, however, this report sets a precedent and marks the beginning of a new stage and a new quality in the government administration's handling of responsible and legal export of arms.

This edition of the report contains data from 2013, which can be considered especially important for a number of reasons, in terms of both the development of the national system of export controls, and considerable changes affecting the environment in which Poland's defence industry operates.

To begin with, 2013 was the first full calendar year in which the Polish system of export controls operated under the Act of 29 November 2000 on Foreign Trade in Goods, Technologies and Services of Strategic Significance for State Security and for Maintaining International Peace and Security after it had been amended in 2012. The principal consequence of this amendment was to implement to the national regulations Directive 2009/43/EC of the European Parliament and of the Council simplifying terms and conditions of transfers of defence-related products within the Community as well as the Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment. As a result, entrepreneurs had to prepare themselves for conducting promotion and trade under new legal and organizational conditions. On the other hand, it made it possible for them to benefit from facilitated transfers of armaments and military equipment within the EU.

The amendment also contributed to more transparency in actions which state bodies and exporting entrepreneurs take with respect to international transfers of armaments and military equipment (AME). Up until 2012, national reports on AME exports and Poland's inputs to the EU's annual reports featured information compiled from the database of issued export permits. This information may not have fully matched the data on actual exports, e.g. because transactions have been scaled down after the exporter has been issued a permit, or where the performance of a contract has been postponed until the following year (with individual permits being valid for 12 months, a permit issued in a specific calendar year is often used in the next year). As the amended act provides a legal basis for collecting data on actual exports made by entrepreneurs, in its 2013 report the MFA can for the first time give a real picture of the Polish defence industry's export activities to the state authorities, Polish businesspeople and non-governmental organizations, and the international community.

It should also be noted that the previous MFA reports were an expression of the government's good-will and positive attitude towards international cooperation on transparent armament transfers. Now the amended national regulations impose a legal obligation on the Minister of Foreign Affairs to publish an annual report and provide its data to international organizations and EU partners.

Attention should also be paid to the evolving environment in which national AME manufacturers and exporters operate. In 2013, the national defence industry made further steps towards consolidation. Changes in ownership relations, structure and organization did not always reflect positively on the continuity and smoothness of manufacturing and commercial processes. Yet it can be assumed that these difficulties were temporary, and that the consolidation will strengthen the defence industry and boost its competitiveness on international markets in the longer-run.

2. Origins of Poland's export control system

Poland's national system for the control of foreign trade in strategic goods and technologies began to be established in March 1990. Several months later, the Council of Ministers endorsed an export control system model, followed by Poland's exchanging diplomatic notes with eight COCOM¹ states and the Polish Government's declaration that it would introduce the system and that it was committed to international cooperation in this area.

The relevant legislative process was initiated in December 1991 and completed on 2 December 1993 with the adoption by the Sejm of the *Act on the Rules of Special Control of Foreign Trade in Goods and Technologies Related to International Agreements and Obligations*, published in the Journal of Laws (*Dziennik Ustaw*) No 129 of 24 December 1993; the Act entered into force on 25 March 1994. The Act covered dual-use goods, while arms export control was regulated by the then in force Act on Economic Activity, and customs regulations.

The legal regulations on the control of trade of goods and technologies and the Polish Government's commitment to effective operation of the control system were responsible for deleting Poland from the COCOM restriction list on 25 March 1994, a few days before its final dissolution. As late as in the autumn of 1993, when it became apparent that COCOM was incompatible with the new global political developments, its member states and the six countries that had traditionally cooperated with them (Austria, Ireland, Finland, New Zealand, Switzerland and Sweden) embarked on consultations to create a new international non-proliferation agreement, whose working title was New Forum and which would provide for control of the international trade in conventional weapons, as well as advanced equipment and technologies that could be applied to build military arsenals. Poland participated in negotiations to establish the New Forum, which after December 1995 has been referred to as the Wassenaar Agreement².

One of the outcomes of Poland's participation in the Wassenaar Agreement was the need to adopt new legal provisions that would regulate foreign trading in arms and military materiel aimed at harmonizing Polish definitions and control procedures with those of other countries. The relevant provisions were enacted in the *Act of 11 December 1997 on Administering of Foreign Trade in Goods and Services and on the Arms Trade*.

The amassed experience relating to the control of trading in weapons, military materiel, and dual-use goods, as well as Poland's integration efforts brought on the need to align Polish export

¹ COCOM/Coordinating Committee for Multilateral Export Control/ existed from 1949, affiliating 17 leading Western countries. The organization was dedicated to controlling exports to Central and Eastern Europe of strategic goods, technologies and services capable of enhancing their military and economic potentials. Due to its informal character, COCOM was not based on any international treaty and operated on the basis of a 'gentlemen's agreement'. The export control system developed by COCOM radically curtailed the access of Central and Eastern European countries to modern military and civilian technologies.

² After Wassenaar, a district of The Hague where the talks were held.

control laws with the European Union's standards. Accordingly, Poland adopted goods and technology control lists compliant with their Union counterparts. Moreover, Poland began to apply in practice the political recommendations of the EU Code of Conduct on Arms Exports.

The country's economic and technological advancement and the evolution of the international legal and organizational environment led to the drafting of new export control regulations. They were incorporated into the Act of 29 November 2000 on Foreign Trade in Goods, Technologies and Services of Strategic Significance for State Security and for Maintaining International Peace and Security, and on Changing Certain Other Acts. The Act was amended in 2004 in connection with Poland's accession to the European Union and the ensuing need to approximate domestic laws to EU legislation. New experiences in subsequent years prompted further changes in the *acquis* – which in turn have called for additional amendments to domestic law. The consolidated text of the Act of 29 November 2000 taking into account amendments introduced by the Act of 28 May 2012 constitutes Attachment 1 to this report.

3. Basic elements of international export controls

Export controls, both in the European Union and around the world, are an element of security policy which is applied using certain instruments of trade policy.

This ensues from the peculiarity of the goods involved, which are covered by international export controls. They include conventional and mass destruction weapons, arms and a broad group of products with both civilian and military uses. That group of dual-use goods comprises manufacturing facilities, control and measuring equipment, software and production and servicing technologies. In the age of asymmetric conflicts all of them might pose a potential danger to international peace and security, and for that reason several dozen countries cooperate to monitor international trade in those items.

Export controls, as an instrument of state security policy, apply to international trade and implement control mechanisms and instruments relating to typical trade and customs procedures. They constitute a non-tariff restriction on trade, implying the necessity of obtaining a license (permit in Poland) for various forms of trade, including non-material transfers, when no formal customs clearance is conducted, or when a domestic broker takes part in a transaction between companies from other countries and the product in question does not enter the territory of Poland. The process of issuing licenses and related end-user certificates, international import certificates and delivery verification certificates is the prerogative of the national export controls authority, whose function in Poland is fulfilled by the Minister of Economy. This process is part of the international monitoring system of trade in goods of strategic significance.

National and international cooperation between export control authorities, the customs service, the foreign service and special services is a crucial element of export controls. It is regulated by the Act of 29 November 2000 on Foreign Trade in Goods, Technologies and Services of Strategic Significance for State Security and for Maintaining International Peace and Security, which specifies and lays down the prerogatives of the authorities that formulate opinions in the process of issuing export trade licenses, with particular reference to the Minister of Economy's coordination and control powers.

The political and legal environment of international export controls is represented by international treaties and conventions on the non-proliferation of weapons of mass destruction, the United Nations and certain other specialized international organizations and, most importantly, the non-proliferation regimes (agreements) affiliating countries that cooperate on a voluntary, non-treaty basis, motivated by the wish to pursue a common security policy.

Control regimes and non-proliferation agreements:

Informal non-proliferation agreements, also called control regimes, constitute a peculiar form of international cooperation in the sphere of export controls. They represent a form of broader implementation of commitments stemming from multilateral agreements reached by consensus. Poland is a member of all the export control regimes and non-proliferation groupings:

- Nuclear Suppliers Group NSG: in existence since 1974, an informal agreement of 48 states who have common rules of conduct with respect to trading, for peaceful purposes, in nuclear goods and technologies with countries not covered by the regime, in order to prevent the spread of technologies that could be used to build nuclear weapons;
- The Zangger Committee (ZC): set up 1971, it affiliates 39 countries – exporters of technologies for producing fissile materials;
- The Australia Group (AG): established in 1985, it affiliates 41 states. The group is tasked with coordinating export policies in fields which are covered by the provisions of the Biological and Toxin Weapons Convention and the Chemical Weapons Convention;
- The Missile Control Technology Regime (MCTR): launched in 1987, it affiliates 34 states. The regime’s task is to ensure the non-proliferation of missile goods and technologies which could be used to build means of delivery of weapons of mass destruction;
- The Wassenaar Arrangement (WA): established in 1995, it affiliates 41 states. Develops arms and dual-use goods control lists and evaluation guidelines for export permit applications. The most important ones are found in the following documents:
 - a. prevention of potentially destabilising accumulations of conventional weapons,
 - b. best practices for effective legislation on arms brokering,
 - c. best practices in the export of small arms and light weapons,
 - d. best practices for export controls of man-portable air defence systems (MANPADS),
 - e. best practices to prevent destabilising transfers of small arms and light weapons by air,
 - f. best practices for licensing trade in dual-use goods.

See Attachment 3 for a detailed listing of states participating in the respective control regimes.

When talking about non-proliferation agreements, it is also worth mentioning the Hague Code of Conduct against Ballistic Missile Proliferation (HCoC). The HCoC was a basis for developing confidence-building measures concerning missile proliferation, such as the commitment by HCoC State Parties to make annual declarations and pre-launch notifications.

The control regimes are primarily designed to enhance the transparency of listed-goods transfers and to promote the fundamental principles on which the regimes are based. Strong emphasis is placed on regular exchanges of information between the participating countries. The regimes constantly update the control lists, to keep up with technological progress, and seek to coordinate the controlling efforts of participating states. Cooperation among countries is based on national legislation and national export control systems of goods seen as strategic.

Every non-proliferation agreement determines, by way of consensus, general export control guidelines and detailed lists of goods subject to controls adapted to the particular area of interests and responsibility of the given regime (i.e. separate lists for nuclear, chemical and biological weapons, missile technologies and modern conventional weapons). It is a rule that exports of arms and dual-use goods are banned to countries covered by UN, EU and OSCE embargos. In some cases exports of such goods are possible on certain conditions, though this always requires a political decision, frequently taken at the top level. Shipments might also be restricted to countries that

are not formally subject to international sanctions but could undermine international security or human rights. Furthermore, the “catch-all” clause is increasingly applied to licenses, which are now also required for “civilian” goods that are not listed but could nevertheless impact defence, human rights or increase the threat of terrorism.

Non-proliferation agreements left the details of export controls up to the respective member states. However, that approach caused diverse technical and organizational problems within the European Union when the single market was being established. For that reason the EU Commission attempted, in the mid-nineties, to draft a regulation that would unify the export control rules in all the fifteen Member States. Those efforts yielded partial success in the form of the repeatedly amended Community regime for the control of dual-use goods and technologies, including a list of such goods and technologies covered by all the non-proliferation agreements. Arms export controls are currently regulated by the relevant *Council Common Position*, which is legally binding and its provisions have to be implemented into national laws.

The EU Council takes the lead on political decisions that relate to non-proliferation and export controls. At its sessions devoted to external affairs the Council considers the total scope of foreign and security policy, based on the principle of protection of common values and fundamental interests, the Union’s independence, integrity and security, preservation of peace, consolidation of democracy, observance of human rights and fundamental freedoms.

The Council’s work in this regard is assisted by the Permanent Representatives Committee and Political and Security Committee, which prepare opinions worked out at experts’ level by the EU working bodies tasked with export controls:

- **Working Party on Dual-Use Goods (WPDU)**

The Party prepares concepts and concrete proposals of legislation which, after consulting with the Commission and legal services, it submits to the Council at sessions. The Party usually conducts up to ten meetings a year, depending on the Party Chair, who is a representative of the state currently holding the Presidency. The Department of Economic Security of the Ministry of Economy is the leading national authority as regards the Working Party.

- **Dual-Use Coordination Group, established under article 23 of Council Regulation (EC) 428/2009/CFSP**

The group examines all questions relating to the implementation of Community law in the area of controls of dual-use goods raised by the Commission or Member States, and deals with the harmonization of practical procedures. The above Department of Economic Security of the Ministry of Economy is the leading national authority as regards this Group.

- **Council Working Group on conventional arms exports (COARM)**

It plays a similar role as the Working Party, though with focus on the Union’s arms trade policy. It does not concern itself with the practice and mechanisms of controls, which remain a prerogative of national authorities. The Security Policy Department of the MFA is the leading national authority as regards the Group.

The system of exchange of information on export license refusals and the duty to consult with other Member States that have denied licenses before granting a license for an essentially identical transaction is a powerful instrument of exports control both in the framework of the non-proliferation agreements and within the EU.

It is crucial to balance political, social and economic interests when enforcing export controls. The fundamental document of the Wassenaar Arrangement known as the Initial Elements, declares that the Arrangement has been established to contribute to regional and international security and stability by promoting transparency and greater responsibility in transfers of conventional arms and dual-use goods, thus preventing destabilizing accumulations. It is also a goal of the Arrangement to prevent the acquisition of conventional arms and dual-use goods and technologies by terrorist groups and organizations as well as by individual terrorists. However, any measures taken must not impede bona fide transactions.

4. Government policy on non-proliferation and export controls

In its non-proliferation and export controls policy the Polish Government adheres to the country's international obligations stemming from ratified international treaties as well as commitments made to international organizations and under voluntary non-proliferation agreements, which have been discussed in the previous chapter. The decision on whether to accede to an international organization or instrument is made based on national security and foreign policy interests, while also taking into account the impact the assumed obligations could have on the country's technological development and trade.

Treaties and conventions:

- **Nuclear Non-proliferation Treaty (NPT)**: prohibits nuclear powers from transferring nuclear weapons or other nuclear explosive devices to, providing assistance for, encouraging or urging any country not possessing nuclear weapons to produce or acquire by other means such weapons or explosive devices. Moreover, the treaty bans its state parties not possessing nuclear weapons from taking up production of or acquiring by other means nuclear weapons or other nuclear explosive devices. It brings together 190 state parties (the status of North Korea, which abrogated the treaty in 2003, remains unclear);
- **Chemical Weapons Convention (CWC)**: introduces a complete ban on producing, developing, stockpiling, transferring, acquiring and using chemical weapons. Signatories are obligated to report possession of chemical weapons, to destroy such weapons and to supply data on their chemical industries. In force since 1997. Ratified by 190 states;
- **Biological and Toxin Weapons Convention (BTWC)**: bans the development, production and stockpiling of biological weapons and toxins and orders the destruction of such weapons and their means of delivery. Signed in 1972, entered into force in 1975. Currently, 168 states are parties to the Convention;
- **Convention on Certain Conventional Weapons (CCW)**: bans the use of conventional inhumane weapons. Five additional protocols were annexed to the convention. Poland ratified the CCW and its Protocols I, II and III on 2 June 1983 (Protocol I on Non-Detectable Fragments, Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices, and Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons). Moreover, Poland is party to Protocol IV on Blinding Laser Weapons (ratified by Poland on 31 July 2004), the Amendment to Article 1 of the CCW (ratified by Poland on 28 August 2006), and Protocol V on Explosive Remnants of War (ratified by Poland on 1 July 2011).
- **Convention on the Prohibition of Anti-Personnel Mines (Ottawa Convention)**: obligates the parties to introduce a complete ban on anti-personnel mines and destroy their stockpiles within 4 years of its ratification. It is an important instrument of international humanitarian law. Poland signed the Convention in 1997 and ratified it in December 2012. Poland is in the process of destroying its stockpiles of anti-personnel mines, which should be complete

by the end of 2015. This is much earlier than the Convention obligates Poland to do, i.e. by 1 June 2017.

1. International organizations:

- **United Nations:** has the goal of ensuring international peace and security, developing cooperation between nations and promoting human rights. Poland adheres to Security Council resolutions, including those on sanctions against states and organizations that pose a threat to international peace and security, and implements them into national law;
- **Organization for Security and Co-operation in Europe:** established on 1 January 1995 through the transformation of the Conference on Security and Co-operation in Europe into an organization. It is dedicated to the prevention of conflicts in Europe;
- **European Union:** as a member state, Poland fully participates in the implementation of the Common Foreign and Security Policy, which upholds UN Security Council resolutions, including those on sanctions and on joint undertakings to prevent the proliferation of weapons of mass destruction and excessive accumulation of small arms and light weapons;
- **Organization for the Prohibition of Chemical Weapons (OPCW):** implementing body of the Chemical Weapons Convention.

Acting upon its political commitments stemming from the above-mentioned treaties, non-proliferation agreements, and membership of international organisations, the Polish export control authorities, in their weapons and military equipment export control policy, also abide by the rule of issuing export licenses solely to state actors³ in countries that meet the criteria of the Council Common Position 2008/944/CFSP. As an exception to this rule, they may issue export licences for weapons and military equipment to non-state actors, but only if they are from EU Member States or other states known for their acceptable and credible export control regimes.

The legal framework of Poland's export control regime is provided for by the following legal provisions:

- Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items, amended by Regulation (EU) No 1232/2011 of the European Parliament and of the Council of 16 November 2011 and by Regulation (EU) No 388/2012 of the European Parliament and of the Council of 19 April 2012.
- Act of 29 November 2000 on Foreign Trade in Goods, Technologies and Services of Strategic Significance for State Security and for Maintaining International Peace and Security, amended by the Act of 25 May 2012. Consolidated text of this Act is Attachment 1 to this report.
- Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment.

³ Government administration as well as institutions and organisations authorised by it.

- a set of domestic executive acts and resolutions, regulations and decisions of international organisations imposing specific bans and restrictions on arms exports to specified countries.

The foreign policy pursued by the Republic of Poland and other EU Member States on export controls of weapons, dual-use items and technologies seeks to established the highest possible international standards in this respect. Poland is one of the most active participants in control regimes among the countries of Central-Eastern Europe and has developed broad-ranging co-operation with neighbours and allies regarding export controls. Building on its own experience, Poland intends to support countries in transition in their efforts to establish comprehensive export control systems. By supporting the development of the international system of export controls Poland contributes to the consolidation of international peace and security.

5. Subject of controls

Pursuant to Article 3.1 – 3.3 of the Act, items of strategic significance are dual-use goods and arms enumerated in the appropriate control lists. A list of dual-use items is an integral part of Council Regulation (EC) 428/2009 of 5 May 2009, while the EU military list is incorporated into the domestic legal system by way of Regulation of the Minister of Economy, prepared on the basis of control reference lists adopted by the Wassenaar Arrangement and European Union agencies.

The lists also include technologies essential for the production and maintenance of the final products and appropriate control-measuring devices. The list of dual-use goods contains over 2000 descriptions of various kinds of equipment, measuring devices, materials, technologies and software subject to international controls. The arms list includes 22 categories of weapons and auxiliary equipment.

Attachment 2 contains an abridged description of these categories. The listings are not closed and are updated annually by the competent implementing bodies of the non-proliferation accords.

Export controls also apply to services connected with the listed goods and technologies. No separate licensing is required for minimum technologies needed for the activation and basic use of the end product, if the technology was supplied together with the product on the basis of a valid export authorization.

Notification of refusals to issue export licences and the so-called undercuts represent basic instruments of multilateral cooperation. An administrative refusal to issue an export license should be notified to the regime's other participants, on account of the regime's objectives. In the event that a similar transaction is being reviewed by another state, such state is expected to engage in bilateral consultations with the state that previously refused to grant a license in order to prevent "undercuts". A licence refusal system operates under NSG, AG, MTCR and WA, and bilateral consultations are held under NSG, MTCR and AG. In practice, this obligation entails the presence of ever-growing separate lists, which have to be reviewed in the course of the licensing process.

Similarly, lists of additional goods that are subject to extended control, implemented under regulations that impose sanctions on certain states, also constitute separate control lists.

The existence of such large number of different control lists and their continuous evolution calls for extensive knowledge and due diligence on the part of producers, exporters and government administration officials.

6. Organization of export controls in Poland

In accordance with the Act, the Minister of Economy is the authority competent in matters of export controls. He/she implements those tasks through the Department of Economic Security of the Ministry of Economy, which prepares the relevant applications and decisions on the licensing of trade in dual-use goods, arms and military equipment.

The export control authority issues trade permits after obtaining the opinions of the Minister of Foreign Affairs, the Minister of Interior, the Minister of Finance, the Head of the Military Counterintelligence Service, the Head of the Military Intelligence Service, the Head of the Internal Security Agency, the Head of the Intelligence Agency, and with reference to the nuclear goods and technologies, and other dual-use products – the President of the National Atomic Energy Agency. Each of them prepares their opinion independently, within the scope of their statutory competencies. The authorities involved in the system of export controls communicate with each other using secure telecom channels. Units of the customs service are being gradually incorporated into the system.

The system of export controls outlined above is in effect a system for the monitoring of legal trade. The physical control of legal trade and prevention and countering of illicit trade is the task of the customs service and special services.

Criminal sanctions imposed on illegal activity are an essential component of any export control system. In Poland the relevant criminal and administrative sanctions are provided for in Articles 33-42 of the Act. Unauthorized trade or trade that contravenes the conditions set out in the permit is punishable by a deprivation of liberty of between one year and ten years, and a fine of PLN 200.000. Sanctions for offences connected with the proliferation of weapons of mass destruction, terrorist acts and violations of international embargos are laid down in the Criminal Code. The production, stockpiling, acquisition, sale, storage or transfer of means or weapons of mass destruction contrary to international bans is punishable by a deprivation of liberty of between one year and ten years.

7. International transparency of arms transfers

The idea of transparency of international commercial and non-commercial arms transfers started making headway in the mid-eighties and is gradually gaining popularity. Its practical implementation consists in the exchange of information between states involved in international export controls on the elements of their systems: legislation, organization, procedures, licensing decisions and refusals. An equally important addressee of the transparency campaign is each country's domestic arms industry, including producers, exporters, brokers, academic centres and research and development institutions.

Information on the legal and organizational aspects of national export control systems is usually available from the websites of the national export control authorities and institutions collaborating with them. The websites often include additional information links.

In Poland, topical information is primarily available from the websites of the Ministry of Economy and the Ministry of Foreign Affairs.

Annual reports and registers, worked out in multilateral diplomatic forums, constitute a key transparency instrument to which member states make their input within predetermined deadlines. These reports and registers differ in terms of the type of equipment covered and the character of the data included. There are three basic channels for the annual reports:

- UN Register of Conventional Arms
(<http://www.un.org/disarmament/convarms/Register>)
which concerns transfers of seven categories of arms (see table 9) and transfers of small arms and light weapons;
- OSCE Register of transfers of conventional arms and small arms and light weapons (SALW) – in practice it replicates data submitted to the UN. It also includes data on transfers of man-portable air-defence systems (MANPADS) and SALW transfers by air;
- Annual Report as envisioned by Article 8.2 of the EU Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment, published in the C series of the Official Journal of the European Union – it contains data on the number and value of issued licenses, actual exports (if available), refusals and their basis.

The amended Act obligates exporters to report their exports to the Minister of Foreign Affairs on an annual basis. These data will help enhance the transparency of reports submitted by Poland to international organizations.

Transparency of export license refusals is a separate topic. In that instance, transparency is limited to the exchange of classified information between states, without being made available to non-governmental entities. This arrangement has been adopted to protect the commercial interests of the parties involved in transactions.

International NGOs are playing an increasingly prominent role in the sphere of transparency of arms transfers. The pressure they exert both on the exporter countries' administration, companies and importer countries has led to an ever greater awareness, also outside the EU, of the rules applicable to the control of exports of weapons and the knowledge required to implement them. One should also note the growing role of parliaments in promoting the idea of transparency and stimulating the development of export control regimes in many countries. Meanwhile, the importance of transparency will keep rising in step with the growing number of tasks faced by government administrations.

8. Arms exports

Polish arms exports comply with our country's international obligations and applicable law. Any violation of these principles would be penalized pursuant to provisions of the Act of 29 November 2000 or the Criminal Code, depending on the kind of breach. When issuing arms export permits the Polish administration takes into account the right of every state to self-defence – and to purchase arms – enshrined in Article 51 of the UN Charter.

International reports involve different types of information and thus require the application of different methods for the acquisition and processing of the relevant data. The main difference boils down to the fact that inputs to UN and OSCE registers are prepared on the basis of data on actual transfers counted in number of items, while data input into the European Union annual report are collected, in the most part, from statistics of the value of export licences issued. Also the scope of the subject matter of the reports in both cases is so different as to make any comparisons difficult. UN registers of conventional armaments, small arms and light weapons are sent data on complete systems, while EU methodology provides for reporting data on transfers of both complete systems and spare parts and components, also made as part of ongoing cooperation between the defence industries of different states. There are also basic differences in the description of the category of equipment between UN registers and the EU report.

It should be pointed out that export permits are valid for 12 months, which means that actual transfers of equipment might take place in the year following the year when a permit was issued. As a result, data from different sources, if not closely analyzed, might appear inconsistent. Poland is not the only country experiencing this problem. Due to the above circumstances each table below will be accompanied by brief notes explaining how the presented data has been compiled.

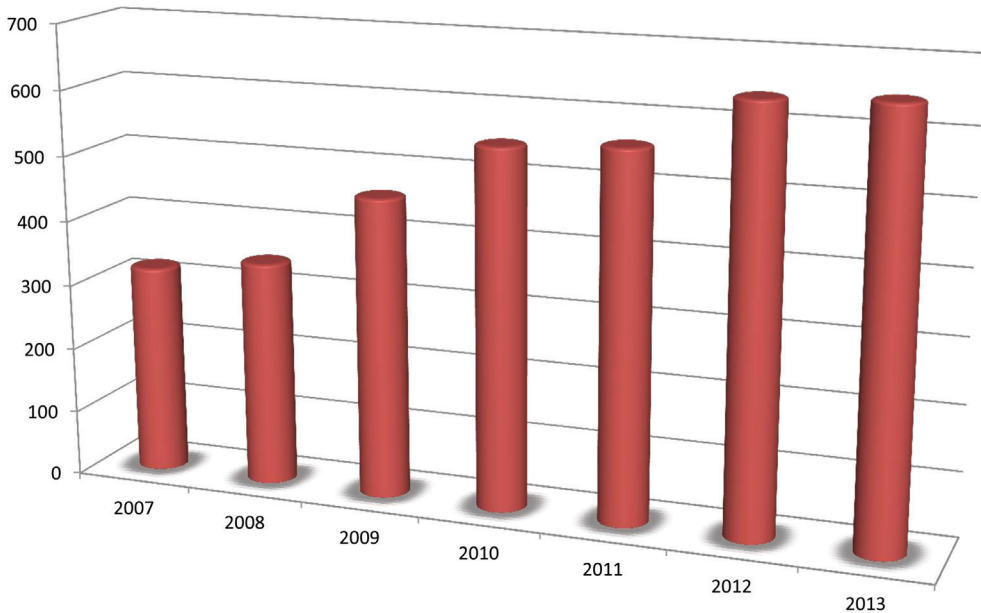
As has been stressed in the Introduction, this is the first edition of the Report to present data on actual exports, based on information provided by national entrepreneurs. The data in question comprise only actual exports or final non-trade transfers, and do not include temporary transfers of equipment for fairs, tests, repair needs of the Polish Armed Forces deployed abroad or transfers of components for warranty repairs of equipment that has been previously exported from Poland.

9. Quantitative data

9.1. General export data

In recent years, there has been a steady rise in the number of issued export licences, as depicted by the graph below.

Diagram 1: Number of export licenses issued in the years 2007-2013



Considering the need to process applications that are not “new transfers” and those that concern dual-use goods by export control authorities and bodies that issue opinions, the number of decisions that these bodies issue greatly exceeds 1200 per year.

Table 1 presents detailed information about the quantity and value of export licenses and refusals to grant export licenses for weapons and military equipment according to the 22 categories of the Military List, issued during the last four years to state and government, and private sector companies. It does not cover data on non-trade transfers and transfers relating to the running of peacekeeping missions under the auspices of the United Nations, the European Union and NATO. These data only cover new transfers and as such do not include transfers of equipment under warranty repairs, trade shows, tests or repairs of the equipment belonging to the Polish Armed Forces or other uniform services that is repaired abroad.

The quantity of issued licenses is given in numbers, although sometimes one license may apply to goods which fall under more than one category from the *Military List*.

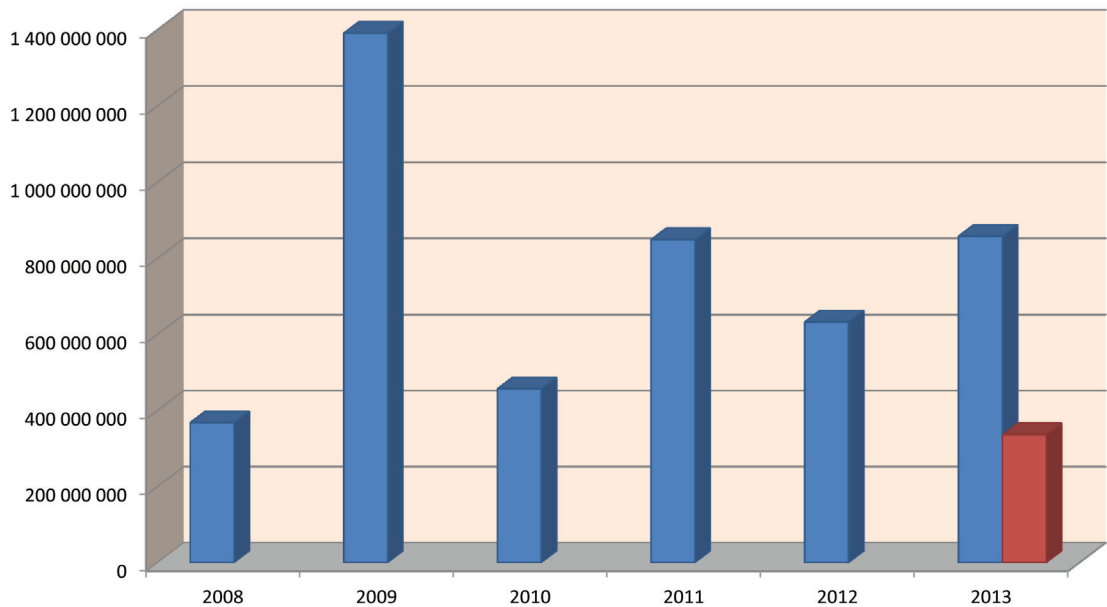
The value of issued licenses is given in euro. The last line in the table with information on refusal criteria refers to the criteria presented in the Common Position 2008/944/CFSP and prior to its entry into force – to the criteria found in the EU Code of Conduct on Arms Exports.

Table 1. Total Polish exports in the years 2010-2013

	2010	2011	2012	2013
Number of licenses	550	561	641	648
Total value of licenses (EUR)	457 109 577	849 167 475	633 003 667	858 001 551
Actual exports	n/a	n/a	n/a	336 436 763
Number of notified refusals	1	3	0	0
Refusal criteria	3, 7, 8	2, 3, 7		

Diagram 2: Changes in the total value of licenses issued in the years 2008-2013 and the value of actual exports in 2013.

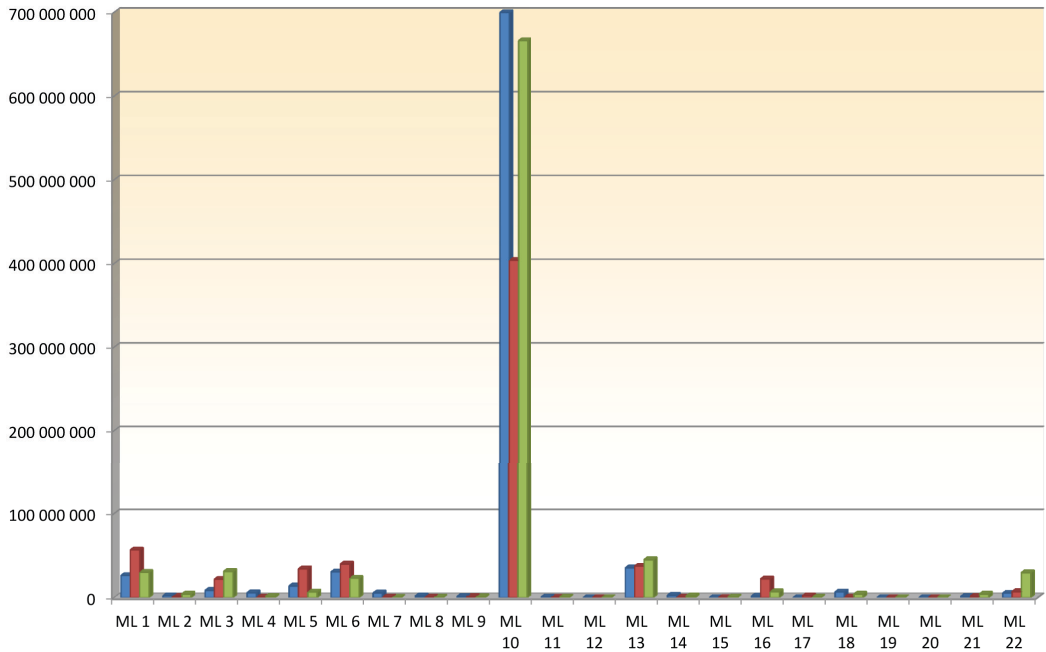
Note should be taken of the 35.5 percent increase in the value of export permits in 2013 relative to the previous year. However, as shown in the diagram, actual exports accounted for as little as 39.2 percent of the value of issued permits.



The ML 10 category is traditionally the major item in terms of export value. This is due to ancillary exports of companies cooperating with foreign corporations or of their subsidiaries. These companies, which produce aircraft, helicopter and land vehicle components, continue to be the major Polish exporters of equipment covered by the EU Common Military List and their incomes significantly influence the combined value of Polish defence exports.

The subsequent diagrams illustrate the export breakdown in specific Military List categories, along with a comparison of the value of permits issued in 2013 and the actual exports.

Diagram 3: 2011-2013 export value as per the Common Military List categories (in EUR according to the value of export permits issued)



The next diagram presents the export structure based on the EU Common Military List after deducting the ML 10 category from the total value of licenses issued in three consecutive years.

Diagram 4: Comparison of export values based on the EU Common Military List in 2011-2013 (in EUR – excluding the ML 10 category)

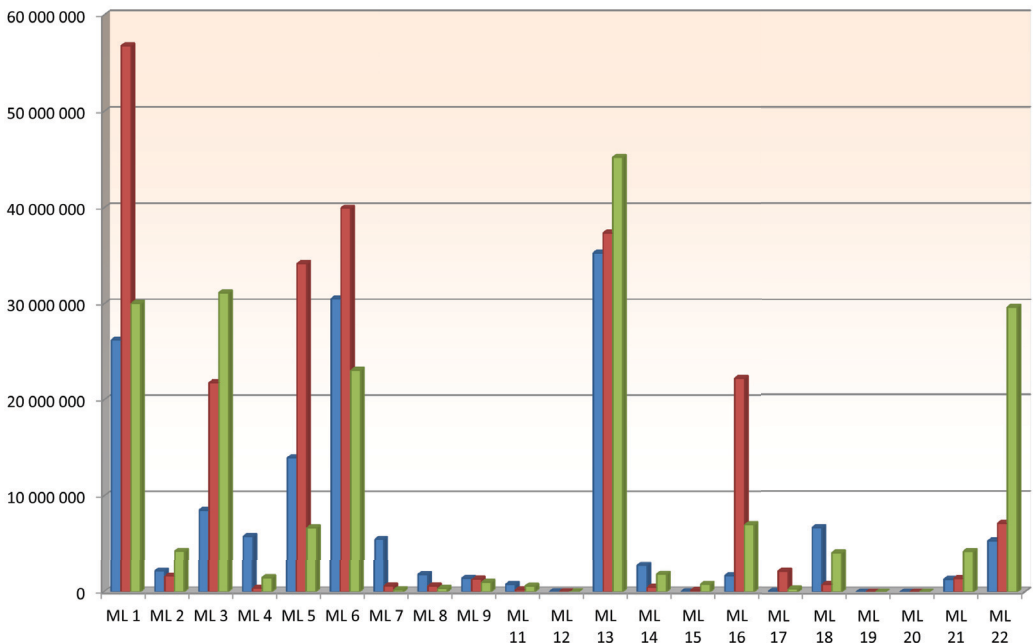
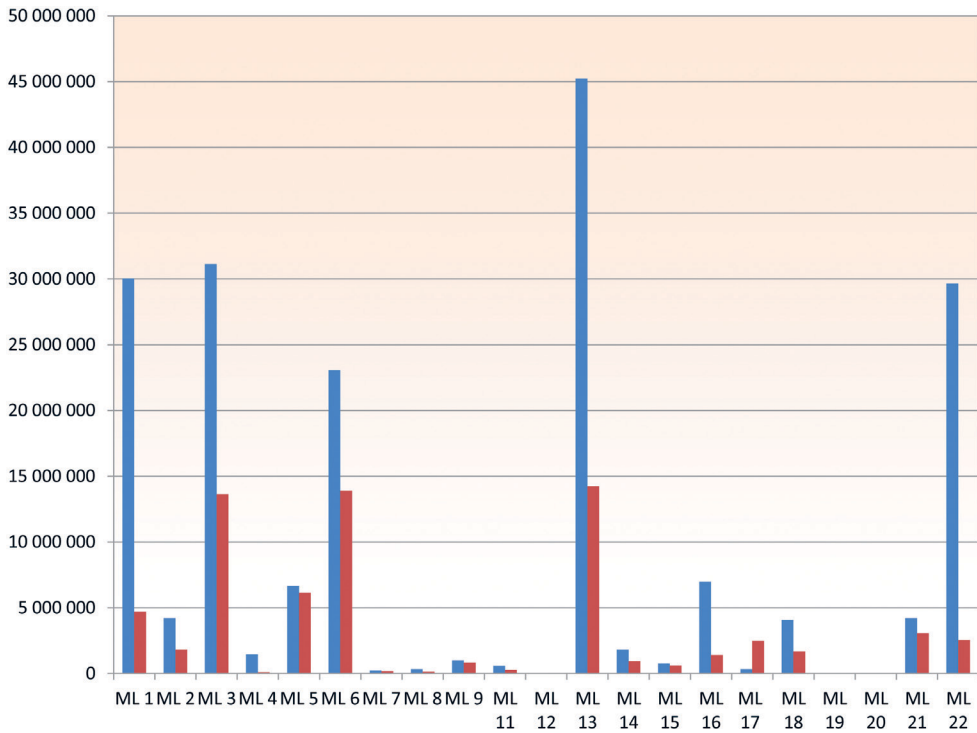


Diagram 5: Comparison of the value of the issued permits and the actual exports based on the EU Common Military List in 2013 (in EUR – excluding the ML 10 category)



It should be also noted that in 2013 the actual exports in the key category ML10 amounted to EUR 267 665 970, or 40.2 % of the value of the permits issued in this category. Table 2 presents numerical data on the value of issued permits and the actual exports in specific categories.

Table 2. 2013 exports in specific Military List categories

No of ML category	Value of permits issued (in EUR)	Actual exports (in EUR)
ML 1	30 036 313	4 713 851
ML 2	4 217 086	1 808 653
ML 3	31 144 000	13 637 115
ML 4	1 467 173	102 883
ML 5	6 672 167	6 154 269
ML 6	23 072 578	13 897 030
ML 7	230 105	178 473
ML 8	335 819	141 869
ML 9	993 483	841 603

ML 10	666 117 240	267 665 970
ML 11	588 339	295 966
ML 12	0	0
ML 13	45 299 949	14 236 795
ML 14	1 817 457	941 548
ML 15	766 372	612 886
ML 16	6 985 759	1 408 559
ML 17	328 469	2 484 555
ML 18	4 054 602	1 691 970
ML 19	0	0
ML 20	0	0
ML 21	4 211 536	3 066 700
ML 22	29 663 104	2 556 068
TOTAL	858 001 551	336 438 763

The above table clearly shows that in virtually all categories the exporters applied for permits whose value far exceeded what they were actually able to export. These differences could partly stem from the fact that the performance of some contracts was postponed until the following calendar year. Considerable discrepancies between the value of export permits issued and the actual exports also exist in many other EU Member States, as evident from Table 3 below.

At the same time, Table 2 indicates that in 2013 the national non-aviation defence industry was granted EUR 191.9 million worth of export permits, whilst its actual imports amounted to a mere EUR 68.8 million. Moreover, this amount was largely obtained by selling superfluous materiel from army depots and through re-export, rather than by exporting new products made by domestic industry. In the current legal regime the Ministry of Foreign Affairs has no tools to determine with precision the numerical value of actual exports of new armaments and military equipment. However, even those estimates go to show that it was right to set about restructuring and consolidating the Polish defence industry.

It would be difficult to identify any clear patterns in the dynamics of Polish export. This can be explained by the fact that the Polish export, whose value is limited, tends to grow or decrease dramatically following the winning or losing of a single contract, even if its value is not very significant.

Table 3 presents data on exports from EU countries in the years 2011-2012 to illustrate the position of Poland as a European weapons exporter. Export data for 2013 of other EU Member States were not available as at the date of drafting this report.

Table 3. Exports of arms and military equipment from EU states in the years 2011-2012 (in EUR)

No.	Country	2011			2012		
		A	B	C	A	B	C
1.	Austria	1 436	1 632 165 264	429 828 877	1 554	1 554 469 606	454 645 562
2.	Belgium	1 477	834 555 794	n.a.	1 556	969 699 930	n.a.
3.	Bulgaria	406	223 451 646	231 397 462	499	349 052 743	219 412 155
4.	Cyprus	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
5.	Croatia	n.ap.	n.ap.	n.ap.	n.ap.	n.ap.	n.ap.
6.	Denmark	320	237 240 740	n.a.	402	221 676 454	n.a.
7.	Estonia	51	350 300 360	2 728 756	56	2 708 743	612 341
8.	Finland	288	183 558 597	97 164 075	208	57 888 090	118 345 469
9.	France	8 021	9 991 574 536	3 647 365 492	7 402	137 603 13 539	3 344 132 703
10.	Greece	242	225 904 584	n.a.	357	339 912 650	n.a.
11.	Spain	863	2 871 202 275	2 431 212 618	1 153	7 694 557 769	1 953 447 932
12.	The Netherlands	806	415 746 108	771 873 682	852	941 035 294	822 070 549
13.	Ireland	72	27 092 560	n.a.	129	47 117 546	n.a.
14.	Lithuania	53	50 503 454	47 694 319	48	20 162 010	18 886 389
15.	Luxembourg	19	1 237 111	n.a.	68	4 341 886	3 068 111
16.	Latvia	5	74 729	67 274	26	295 564	295 564
17.	Malta	230	4 720 386	3 163 267	305	9 413 034	8 434 303
18.	Germany	18 208	5 414 552 181	n.a.	16 876	4 703 969 983	n.a.
19.	Poland	561	849 167 475	n.a.	641	633 003 667	n.a.
20.	Portugal	2 078	31 275 146	24 633 319	18 881	52 172 856	30 506 843
21.	Czech Republic	1 092	346 341 228	183 424 126	1 164	265 159 448	274 335 998
22.	Romania	371	183 533 121	130 704 073	402	178 829 444	82 614 941
23.	Slovakia	185	29 999 005	10 391 655	262	72 506 639	24 620 959
24.	Slovenia	65	11 598 399	9 170 947	42	8 726 961	4 035 516
25.	Sweden	658	1 188 676 399	1 507 179 337	641	881 596 794	1 099 348 984
26.	Hungary	215	156 056 413	18 264 311	283	269 845 253	27 172 902
27.	Unite Kingdom	8 786	7 002 564 521	n.a.	9 678	2 664 113 244	n.a.
28.	Italy	1 615	5 261 720 872	1 022 662 340	1 533	4 160 155 096	3 010 048 208
EU total		48 123	37 524 808 609	n.a.	47 812	39 862 724 243	n.a.

A – number of export licenses issued

B – value of exports in accordance with licenses issued

n. a. – not available

n. ap. – not applicable: refers to Croatia, which did not file any reports prior to 2013.

C – actual value of exports

n. a. – not available

n. ap. – not applicable: refers to Croatia, which did not file any reports prior to 2013.

Note: the actual value of exports may differ from the value specified in the issued licenses on account of incomplete utilization of the licenses or the completion of contracts for which licenses were issued in the previous years.

Table 4 presents comparative data on the number of refusals issued in the last four years by all EU Member States.

Table 4. Numbers of export refusals issued by EU Member States in the years 2010-2013

No.	Country	2010	2011	2012	2013
1.	Austria	38	9	11	0
2.	Belgium	8	17	13	21
3.	Bulgaria	1	9	0	3
4.	Croatia	n.ap.	n.ap.	n.ap.	n.ap.
5.	Cyprus	0	0	0	0
6.	Denmark	2	8	3	8
7.	Estonia	0	0	0	1
8.	Finland	5	11	14	5
9.	France	37	71	74	22
10.	Greece	1	5	4	17
11.	Spain	0	0	0	0
12.	The Netherlands	1	4	10	3
13.	Ireland	0	0	0	0
14.	Lithuania	1	2	1	0
15.	Luxembourg	0	0	0	0
16.	Latvia	3	6	4	0
17.	Malta	0	0	0	1
18.	Germany	173	158	242	133
19.	Poland	1	3	0	0
20.	Portugal	0	0	10	6
21.	Czech Republic	4	4	0	1
22.	Romania	0	5	0	0
23.	Slovakia	0	0	0	0
24.	Slovenia	0	0	0	0
25.	Sweden	4	5	8	21
26.	Hungary	3	0	0	3
27.	United Kingdom	45	115	83	44
28.	Italy	15	6	0	0

Tables 5 and 6 present data according to regions, taking into account information about the main categories of arms and military equipment exported in 2012-2013, collected using the issued export licenses. Diagrams found below these tables illustrate the graphic structure of exports according to regions.

Table 5. Exports of arms and military equipment from Poland in 2012 according to regions

Region	Number of licenses issued	Value of licenses issued in EUR	Value of licenses issued – percentages	Principal categories of equipment according to Military List
North America	181	430 459 544	68,0	10, 1, 5, 16
European Union	217	73 255 250	11,6	10, 13, 3, 22, 1, 21
South-East Asia	41	35 646 294	5,6	10, 6, 5
South Asia	95	26 272 970	4,2	6, 10, 9
Other European states	33	20 121 828	3,2	13, 3, 6
North Africa	22	19 515 673	3,1	10, 6, 4
Middle East	32	12 159 395	1,9	3, 6, 1
Central Asia	4	7 805 180	1,2	13, 17, 18, 5
South America	5	5 937 217	0,9	13, 10
Central America and the Caribbean	2	1 450 482	0,2	6, 10
North-East Asia	3	221 009	0,0	6, 7
Sub-Saharan Africa	4	143 343	0,0	2, 10, 15
Oceania	2	15 482	0,0	6
Total	641	633 003 667		10, 1, 6, 13, 5, 16, 3, 22

Table 6. Exports of arms and military equipment from Poland in 2013 according to regions

Region	Number of licenses issued	Value of licenses issued in EUR	Value of actual exports	Principal categories of equipment according to Military List
North America	191	549 697 742	240 406 103	10, 1, 6, 22
European Union	262	141 591 467	11 889 502	10, 3, 13, 22, 16, 1, 2
North Africa	22	81 412 132	19 227 192	10, 6
Other European states	45	36 599 279	13 059 904	13, 14, 1, 3
South-East Asia	36	18 640 095	23 344 975	6, 5, 21
South Asia	52	13 572 224	7 707 635	6, 18, 10
Middle East	24	11 365 950	7 395 302	3, 1, 4
Sub-Saharan Africa	8	3 519 018	3 229 894	3, 15, 2
South America	3	1 202 296	6 520 014	13

Central America and the Caribbean	1	217 888	1 399 650	10
North-East Asia	4	183 460	85 162	6, 7
Central Asia	0	0	2 165 710	17
Oceania	0	0	5 720	6
Total	648	858 001 551	336 436 763	

Diagram 6: Exports from Poland in 2012 according to regions, based on licences issued

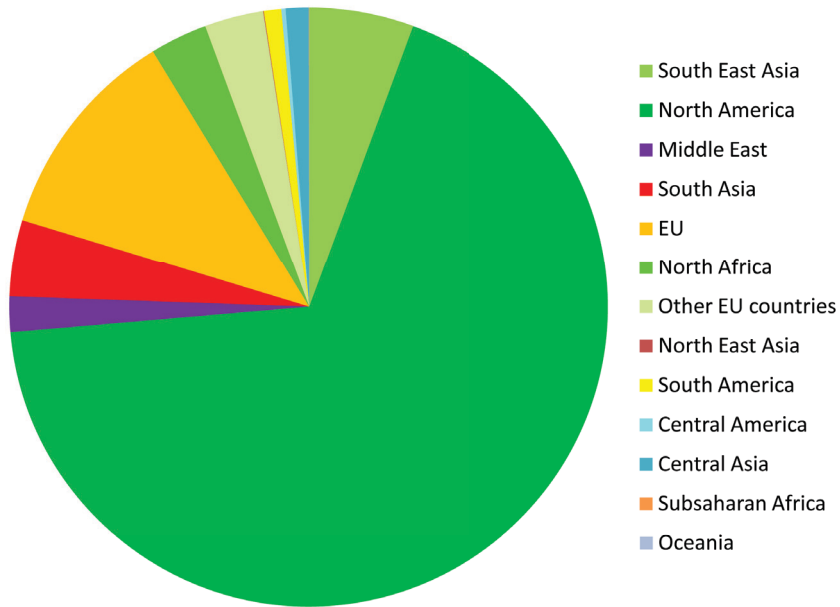


Diagram 7: Exports from Poland in 2013 according to regions, based on licenses issued

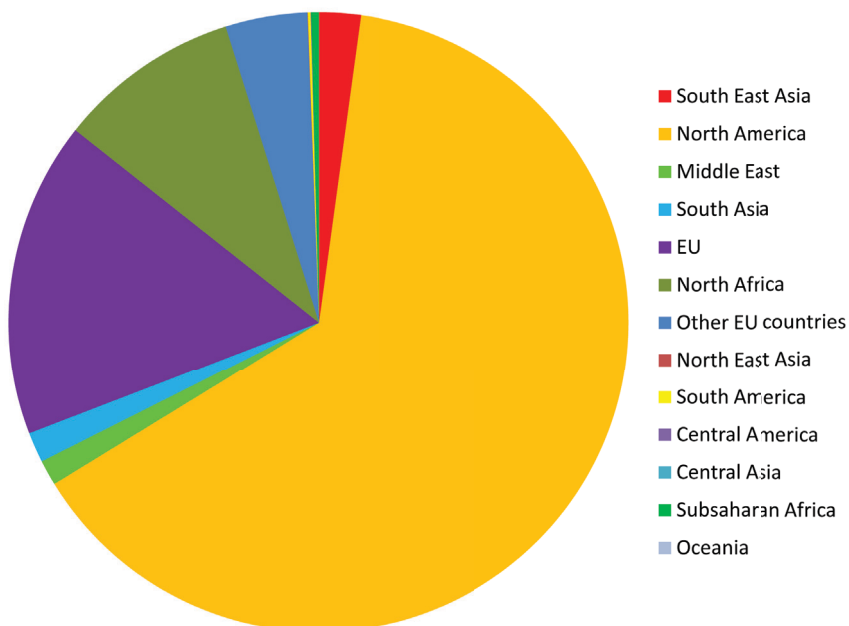
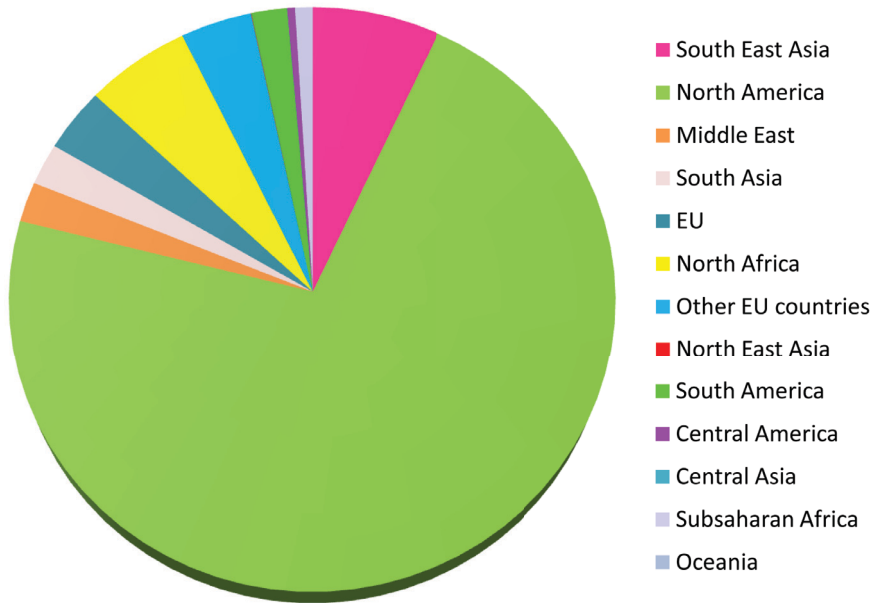


Diagram 8: Actual exports from Poland in 2013 according to regions



The above diagram shows an even bigger share of North America as a destination for Poland's actual AME exports than the data on the value of permits issued would suggest.

Tables 7 lists countries that imported Polish arms and military equipment in 2013.

Table 7. Importers from Poland according to value of licenses 2013

No.	State	Number of licenses issued	Value of licenses (in EUR)	Value of actual exports (in EUR)	Military list category
1	United States	121	418 624 807	222 356 581	10, 22, 1, 16
2	Canada	70	131 072 935	18 049 522	10, 6, 22
3	Algeria	20	81 398 253	19 213 313	10, 6
4	United Kingdom	63	61 326 965	237 265	10, 22
5	Norway	16	26 203 845	11 194 085	13, 3
6	Italy	12	24 644 504	63 742	10
7	Bulgaria	11	19 120 112	2 760 110	3, 2
8	India	43	13 224 218	7 684 605	6, 18, 10
9	Germany	51	10 674 340	955 088	22, 10, 13, 16
10	Malaysia	15	8 508 911	4 262 749	6, 5
11	Czech Republic	65	8 479 231	5 996 564	1, 10, 2, 6
12	Vietnam	8	7 415 016	6 071 384	21, 5, 22
13	Saudi Arabia	1	7 102 000	6 460 460	3
14	Switzerland	6	6 323 414	690 427	13

15	Denmark	2	5 999 900	0	13
16	Sweden	7	5 181 332	151 885	13
17	Belgium	4	3 826 676	380 987	16
18	Mali	3	2 631 689	2 625 201	3
19	Israel	5	2 184 253	177 179	1
20	Egypt	17	1 983 025	757 663	6, 1
21	Russia	5	1 963 512	164 024	1
22	Turkey	4	1 438 274	770 991	14
23	Singapore	2	1 265 302	2 131 261	6, 16
24	Indonesia	8	1 225 866	27 572	2
25	Chile	3	1 202 296	4 097 054	13
26	France	18	1 186 955	723 746	6, 10
27	Ethiopia	3	737 419	454 033	15, 2
28	Ukraine	7	403 051	99 384	7, 5, 3, 13
29	The Netherlands	3	394 716	10 250	13, 14, 10
30	Bangladesh	5	339 284	23 030	11, 10, 6
31	Philippines	3	225 000	10 812 003	11
32	Mexico	1	217 888	0	10
33	Slovakia	2	184 457	0	13
34	Austria	4	160 006	160 006	1, 2
35	Nigeria	2	149 910	149 910	2, 3
36	Azerbaijan	1	133 000	0	6
37	Armenia	5	116 430	116 430	5, 14, 17, 13
38	Japan	1	100 000	1 733	22
39	Kuwait	1	96 472	0	3
40	Romania	3	90 887	56 668	8, 13
41	Republic of Korea	3	83 460	83 429	6, 7
42	Croatia	2	80 455	66 555	13, 6
43	Finland	3	65 572	67 504	6, 11
44	Portugal	4	50 915	0	13
45	Greece	1	47 619	0	2
46	Estonia	2	44 788	0	13, 18
47	Serbia	1	17 753	6 535	13
48	Spain	3	16 165	0	13
49	Latvia	2	15 872	3 552	13
50	Libya	2	13 879	13 879	13, 4
51	Sri Lanka	4	8 922	0	10
52	Australia	0	0	5 720	
53	Belarus	0	0	18 028	

54	Guatemala	0	0	1 399 650	
55	Kazakhstan	0	0	2 165 710	
56	Kenya	0	0	750	
57	Venezuela	0	0	2 422 960	
58	Hungary	0	0	255 580	

Table 8 presents collective data about Polish companies that acted as brokers in arms trading in 2013, according to a data base on brokerage licences.

Table 8. Brokerage licences for arms trade issued in 2013

Country of destination	No. of licenses	Value based on licenses in EUR	ML category	Country of origin
Egypt	2	1 405 861	3a	Bulgaria
		24 500	1a	Bulgaria
Mozambique	2	2 489	10	India
		80 138	10	India
Saudi Arabia	2	1 245 357	3a	Serbia
		4 236 785	2,6	Serbia
Iraq	1	1 245 358	10b	Lithuania
Kazakhstan	2	42 809	13d	China
		803 940	13d	China
India	1	235 718,22	6a	Ukraine
Bangladesh	1	855	13c	Italy
Bulgaria	1	106 002	10	Hungary

9.2. Combat equipment transfer data

Table 9 presents data on actual exports and transfers of equipment covered by the seven categories of the UN register, compiled on the basis of data supplied by the Ministry of National Defence, the Ministry of Finance (customs service), and exporters.

Table 9. Polish arms exports in 2013 according to the categories of the UN Register of Conventional Arms

Category		Importer country	Number of items	Product description
I.	Battle tanks	–	–	–
II.	Armoured combat vehicles	India	8	WZT-3
III.	Large-calibre artillery systems	Bulgaria	11	2S1 122mm howitzer
		Czech Republic	2	„
		Finland	3	„
		Germany	7	120 mm mortar
IV.	Combat aircraft	–	–	–
V.	Attack helicopters	USA	10	Black Hawk
VI.	Warships	–	–	–
VII.	Missiles and missile launchers	–	–	–

10. Promotion of arms exports abroad

Export of arms and military equipment, on account of its nature, influences the development of international relations and, as such, is an important element of foreign policy. Polish arms and military equipment are generally sold to government ministries or agencies and consequently co-operation in this area is regarded as a confirmation of good political relations based on trust and common security interests. The activity of government administration, including the Ministry of Foreign Affairs, is focused on official contacts – through high-level meetings and the work of our diplomatic missions, the Polish defence industry offer can be better promoted if it is addressed to persons responsible for the shape and potential of the armed forces. Support for the defence industry also extends to R&D cooperation. Moreover, it involves the protection of the sector's interests in the framework of organisations and political agreements dealing with international strategic sales.

The Ministry of Foreign Affairs, in interaction with the other government administration bodies, has been supporting the Polish defence industry in its efforts for enhancing international co-operation and more effective promotion on global markets. These measures complement the marketing efforts of Polish entrepreneurs. In the case of the Ministry of Foreign Affairs, the assistance includes:

- co-initiating and providing political support for intergovernmental cooperation of defence sectors in the spheres of R&D, production and procurement;
- fostering the creation of a legal base for bilateral and multilateral cooperation;
- initiating intergovernmental visits to promote trade contacts;
- analysing a country's domestic conditions which are important for the perception of the Polish offer;
- participating in institutional forms of bilateral cooperation (working groups, commissions);
- protecting the Polish industry's interests on international fora;
- participating in meetings and conferences during trade shows.

The possibility of tapping into the potential offered by the extensive network of diplomatic missions is particularly valuable. The tasks of Polish diplomats include:

- analysing the local markets;
- providing support for and promoting specific projects (including participation in trade shows);
- protocol and media support of events connected with the promotion of arms and military equipment;
- assessing the effectiveness of Polish entrepreneurs' activities;
- drafting proposals concerning additional actions to be undertaken at home, aimed at a more effective promotion of the Polish offer.

Current cooperation of the Ministry of Foreign Affairs and its diplomatic missions with the Polish defence industry creates favourable conditions for responsible and transparent export control policy. We are all striving to ensure that rules of the export control policy are taken into account even in early stages of commercial negotiations of our entrepreneurs with their foreign partners. We also try to discourage companies from engaging in contracts incompatible with Poland's foreign policy and where the exporter can realistically expect to receive denial of an export license.

Tasks relating to the promotion of Polish arms and military equipment are planned and carried out pursuant to the Republic of Poland's legal and political commitments. Their main goal is to consolidate Poland's image as a producer of modern armaments, a reliable and impartial partner that honours international export control commitments.

We act on the assumption that Poland's credibility as a member of the international export control regime affects the way in which Polish companies are positioned on the global arms and military equipment export market, making them more attractive. Only by maintaining high export control standards can their participation in the most advanced forms of ancillary cooperation be guaranteed and their ability to obtain state-of-the-art technologies be possible. This will continue to be a common goal and task of the Polish government administration and defence industry.

Act
of 29 November 2000
on Foreign Trade in Goods, Technologies and Services of Strategic Significance for State Security and for Maintaining International Peace and Security

(consolidated text, unofficial translation)

Chapter 1
General provisions

Article 1. This Act sets forth the rules of foreign trade in goods, technologies and services of strategic significance for State security and for maintaining international peace and security, the rules of control and records of this trade, as well as the liability in the case of illegal trade in these goods, technologies and services.

Article 1a. (repealed).

Article 2. Foreign trade in goods, technologies and services of strategic significance for State security and for maintaining international peace and security is permitted under the terms set forth in Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (Official Journal of the European Union, L 134, 29 May 2009, p. 1), hereinafter referred to as “Regulation No 428/2009,” legislative acts, agreements and other international commitments.

Article 3. Definitions of terms:

- 1) dual-use items – dual-use items within the meaning of Article 2 (1) of Regulation No 428/2009;
- 2) military goods – weapons, ammunition, explosives, products, their components or technologies specified in provisions issued pursuant to Article 6a (3) hereof;
- 3) items of strategic significance – items of strategic significance for State security and for maintaining international peace and security, which are dual-use items or military goods;
- 4) (repealed);
- 4a) Community Customs Code – Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (Official Journal of the European Communities L 302 of 19 October 1992), as last amended by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (Official Journal of the European Union L 236 of 23 September 2003);

- 4b) customs territory of the European Union – the customs territory within the meaning of Article 3 of the Community Customs Code;
- 4c) third country – any country outside the customs territory of the European Union;
- 5) export – export within the meaning of Article 2 (2) of Regulation No 428/2009;
- 5a) brokering service – brokering service within the meaning of Article 2 (5) of Regulation No 428/2009 or – in the case of military goods – activities related to the transfer of military goods between two countries, neither of which is the Republic of Poland, consisting in:
 - a) negotiating, business consulting, and assistance in the conclusion of contracts,
 - b) any form of participation in activities related to export, import, transit or conclusion of any lease, donation, loan, or bailment agreement, as well to any contributions in kind,
 - c) purchase, sale or transfer;
- 5b) technical assistance – any form of technical support related to repairs, development, production, testing, maintenance, or any other technical services related to items of strategic significance, also in the form of instructions, training, transfer of working knowledge or consulting services;
- 6) import – entry of items of strategic significance into the territory of the Republic of Poland from a third country;
- 7) transit – transit within the meaning of Article 2 (7) of Regulation No 428/2009 or – in the case of military goods – transfer between a European Union Member State (excluding the Republic of Poland) and a third country or between third countries, through the territory of the Republic of Poland;
- 7a) intra-EU transfer – forwarding or moving of items of strategic significance from an entity in one Member State to an entity in another Member State without leaving the customs territory of the European Union,
- 8) trade:
 - a) export,
 - b) intra-EU transfer
 - c) brokering services
 - d) technical assistance,
 - e) import,
 - f) transit;
- 8a) entity – a natural person, legal person or organizational unit without legal personality, provided it possesses legal capacity;

- 8b) consignor – an entity authorized to hand over military goods;
- 8c) consignee – an entity authorized to accept military goods;
- 8d) exporter – an exporter within the meaning of Article 2 (3) of Regulation No 428/2009 or – in the case of military goods:
- a) entity resident or established in the territory of the Republic of Poland, which:
 - at the time when an export declaration is accepted, holds a contract with the consignee in a third country and is authorized to export military goods, or
 - is authorized to export military goods when an export contract has not been concluded or a party to the contract does not act on their own behalf,
 - b) contracting party resident or established in the territory of the Republic of Poland, when the right to dispose of military goods belongs to an entity resident or established outside the territory of the Republic of Poland, pursuant to a contract on which the export is based;
- 8e) importer – an entity resident or established in the territory of the Republic of Poland, which is authorized to accept items of strategic significance from a third country;
- 8f) broker – a broker within the meaning of Article 2 (6) of Regulation No 428/2009 or – in the case of military goods – an entity rendering brokering services in respect of military goods;
- 8g) end user – an entity which declares that it will use items of strategic significance for the purposes of its own activity;
- 8i) individual authorisation – an authorisation within the meaning of Article 2 (8) of Regulation No 428/2009 or, in the case of military goods and trade in dual-use items other than export, an authorisation granted to one entity for one end user, importer or consignee in a different country and covering a specific amount and value of unambiguously defined items of strategic significance;
- 8j) global authorisation – an authorisation within the meaning of Article 2 (10) of Regulation No 428/2009 or, in the case of military goods and trade in dual-use items other than export, an authorisation granted to one entity for one end user, importer or consignee or more of them, in a different country or countries and covering specific types or categories of items of strategic significance;
- 9) (repealed)
- 10) trade control authority – minister responsible for economy;
- 11) advisory authorities – minister responsible for foreign affairs, Minister of Interior, minister responsible for public finance, Head of Military Counterintelligence Service, Head of Military Intelligence Service, Head of Internal Security Agency, Head of Intelligence Agency, and with respect to nuclear goods and technologies, and other dual-use items which fall within his or her scope of competence – President of National Atomic Energy Agency;

12) monitoring authority – Head of the Internal Security Agency;

13) entrepreneur – an entrepreneur within the meaning of the Freedom of Economic Activity Act of 2 July 2004 (Journal of Laws of 2010, No 220, item 1447, as amended).

Article 4. Import into the territory of the Republic of Poland, export from the territory of the Republic of Poland as well as transit through the territory of the Republic of Poland of weapons and ammunition by natural persons for purposes other than commercial and industrial shall be subject to separate regulations.

Article 5. For matters provided for herein, provisions of the Code of Administrative Procedure shall apply, unless otherwise provided for in the Act.

Chapter 2

Authorisations for trade in items of strategic significance

Article 6. 1. Technical assistance within the scope of dual-use items may be provided based upon and within the scope defined in an authorisation.

2. No authorisation shall be required for assistance which is provided to an entity resident or established in the territory of the Republic of Poland, or when such assistance concerns items of strategic significance whose intra-EU transfer originating from the territory of the Republic of Poland is not subject to authorisation.

Article 6a. Trade in military goods may only be carried out based on and within the scope defined in an authorisation.

2. An authorisation for transfer of military goods within the EU issued by competent bodies of EU Member States shall be valid in the territory of the Republic of Poland. Should such an authorisation have been issued, no authorisation shall be required for the intra-EU transfer of military goods through the territory of the Republic of Poland.

3. The competent Minister of Economy shall lay down, by way of regulation, a list of military goods whose trade is subject to authorisation, taking into account the types of trade referred to in Article 3 (8) and international lists, in particular the Common Military List adopted by the Council of the European Union.

Article 6b. The Council of Ministers shall lay down, by way of regulation, a list of countries with which trade in specific items of strategic significance shall be forbidden or limited, taking into account public security and human rights, and in the case of military goods also defence or security needs of the Republic of Poland, commitments of the Republic of Poland arising from international agreements and arrangements, as well as alliance commitments, including those referred to in Article 16 (1) (2b-c).

Article 6c. No authorisation shall be required for entry into, or intra-EU transfer through, the territory of the Republic of Poland of dual-use items.

Article 7. 1. For the export of dual-use items, intra-EU transfer of products listed in Annex IV to Regulation No 428/2009, and technical assistance, individual, global or national general authorisations shall be issued. Individual authorisations shall be issued for brokering services related to dual-use items.

2. For the trade in military goods, individual or national general authorisations shall be issued. Global authorisations may also be issued for the intra-EU transfer of military goods, brokering services and technical assistance within the scope of military goods.

Article 8. 1. No individual or global authorisation shall be required to the extent covered by a national general authorisation for trade in items of strategic importance.

2. The competent Minister of Economy may specify, by way of regulation, cases, in particular countries, entities and items of strategic significance, for which he/she shall be issuing a national general authorisation, as well as detailed conditions on which trade covered by a national general authorisation may be conducted, taking into account the need to ensure safe trade in items of strategic significance.

3. In order to conduct trade based on a national general authorisation it shall be necessary to file a declaration about the date of commencing such trade. The said declaration shall be filed with the trade control authority at least a month prior to commencing such trade.

Article 9. 1. Individual or global authorisations shall be issued by the trade control authority following an application by an entity resident or established in the territory of the Republic of Poland, hereinafter "application for authorisation".

2. The application for authorisation shall contain:

- 1) designation of the applicant, including its name, address of its registered office or residential address in the territory of the Republic of Poland;
- 2) tax identification number (NIP);
- 3) the type and scope of business activity carried out by the applicant, provided he/she is an entrepreneur;
- 4) designation of entities which are the applicant's partners in conducting trade covered by the application, including their names, addresses of their registered offices or residential addresses, and their roles in this trade;
- 5) types of items of strategic significance which are subject to trade, including their value, quantity and control number as specified in the list defined in regulations issued on the basis of Article 6a (3) or in annexes to Regulation No 428/2009;
- 6) designation of the producer of the items of strategic significance which are to be traded, as well as end users, including their names and addresses;
- 7) the intended use of items of strategic significance by the end user;
- 8) the country of final destination;

- 9) in the case of entry or intra-EU transfer – a statement of the end user with a commitment to take any actions necessary to deliver items of strategic significance which are to be traded to the end user;
 - 10) certification number of the end user's statement issued by the trade control authority if the importer or end user undertook to obtain a prior approval of the competent foreign authority to dispose in a specific way of items of strategic importance declared in the application or being part thereof.
3. The application for authorisation of export shall also specify:
 - 1) country of origin of items of strategic significance;
 - 2) EU Member State where a dual-use item is or will be;
 - 3) EU Member State where the customs-approved treatment or use will be assigned to a dual-use item.
 4. The application for authorisation of brokering service shall also include:
 - 1) designation of the brokering service;
 - 2) information about placing items of strategic significance in a third country.
 5. The application for authorisation of technical assistance shall additionally specify the type of technical assistance.
 6. The following documents shall be attached by the applicant to the application for the authorisation of trade in items of strategic significance:
 - 1) statement about the holding of concessions or permits to possess items of strategic significance or to conduct activity related to the declared trade, if such concessions or permits are required by the provisions of other acts, along with precise characteristics identifying such documents;
 - 2) draft trade agreement or trade agreement if such an agreement, letter of intent or request for quotation is required for specific type of trade;
 - 3) copy of the certificate referred to in Article 11 (5), if required;
 - 4) import certificate or end user's statement in the case of export or intra-EU transfer; this shall not apply to cases where the country of final destination of goods is the Republic of Poland;
 - 5) approval by the competent foreign authority to dispose of goods in a specific way in the event that the importer or end user undertook to obtain such an approval, or a statement that the applicant is not aware of the obligation referred to in paragraph 2 (10) above.
 7. A sworn translation into Polish shall be required for all documents drawn up in a foreign language.
 8. The competent Minister of Economy shall adopt a relevant regulation to specify:

- 1) model application forms for authorisation of export, intra-EU transfer, brokering services and technical assistance related to items of strategic significance, as well as for authorisation of import and transit of military goods; and model application forms for issuing an import certificate and certification of the end user's statement,
- 2) model forms of individual and global authorisations for export, brokering services, import and transit of military goods, as well as for authorisation of technical assistance and intra-EU transfer related to items of strategic significance – with regard to the types of items and forms of trade.

Article 10. 1. Upon an entity's application and within 3 months of lodging such an application, the trade control authority shall furnish a binding explanation of the requirement to obtain an authorisation for a specific type of trade in items of strategic significance. In justified cases this deadline may be extended to 6 months.

2. Prior to furnishing the explanation referred to in paragraph 1, the trade control authority may request an opinion of advisory authorities. Articles 12 (2) and 12a shall accordingly apply to such an opinion of advisory authorities.

3. The trade control authority may request the applicant to provide additional explanations or documents so as to clarify the circumstances related to the subject matter of the application.

Article 11. 1. An entrepreneur who has applied for an authorisation of trade in military goods or holds a national general authorisation for trade in military goods shall establish and implement an internal system of control and management of trade in military goods, hereinafter referred to as the "internal control system".

2. The internal control system shall in particular define tasks of individual authorities in the organisation, job descriptions as regards basic tasks related to control and management of trade, rules and procedures of employee recruitment, data archiving, internal controls, completion of orders and training.

3. The internal control system shall be certified for conformity with the requirements of international standards within the ISO 9000 series and provisions set forth in paragraph 2 above.

4. The certification referred to in paragraph 3 above shall be carried out by authorised control bodies accredited in the Polish accreditation system established pursuant to provisions of the Act of 30 August 2002 on the Conformity Assessment System (Journal of Laws of 2010, No 138, item 935, as amended).

5. A certificate of conformity with requirements referred to in paragraph 2 above shall be issued by authorized bodies referred to in paragraph 4 above.

6. The certificate of conformity shall be valid for the period of 3 years.

7. Within the period of validity of the certificate of conformity, the authorised bodies referred to in paragraph 4 shall carry out 3 audits of conformity of the internal control system with requirements referred to in paragraph 2 above.

8. With a view to ensuring the consistency of entrepreneurs' internal control systems, the competent Minister of Economy shall adopt a regulation to determine a list of certification bodies authorised to carry out certification of conformity and audits of conformity of internal control systems. This list shall include selected bodies accredited in the Polish accreditation system.

Article 12. 1. Individual or global authorisations shall be issued by way of a relevant administrative decision.

2. Before issuing an individual or global authorisation, the trade control authority shall request advisory authorities, in writing or through an electronic system, to draw up an opinion on any reasons against issuing such an authorisation. The trade control authority shall inform the applicant of such a request.

3. Before issuing an individual or global authorisation, the trade control authority may request the applicant to furnish information so as to verify data provided in the application for authorisation.

4. The applicant shall notify the trade control authority of any changes in the data presented in the application within 14 days after such changes occur.

Article 12a. 1. Advisory authorities shall communicate the opinion referred to in Article 12 (2) to the trade control authority, in writing or through an electronic system allowing identification of the person authorised to issue such an opinion, within 14 days of the day the trade control authority requested such an opinion.

2. In the event that advisory authorities cannot issue the opinion referred to in Article 12 (2) within the period specified in paragraph 1 on account of a special nature of the case being subject of the opinion, provisions of Articles 36-38 of the Code of Administrative Procedure shall apply.

3. The period for drawing up the opinion referred to in Article 12 (2) shall not count towards the period for issuing the decision on issuing an individual or global decision.

4. When drawing up the opinion referred to in Article 12 (2), advisory authorities shall take into consideration the grounds for refusing, changing or withdrawing the authorisation, as set forth in Article 15, Article 16 (1) and (2), and Article 17 (1) (3).

5. The provision of Article 12 (3) shall accordingly apply to advisory authorities.

6. An opinion of advisory authorities shall not require the form of a ruling and shall not be subject to appeal.

Article 12b. Before issuing an individual or global authorisation, the trade control authority shall establish whether in the course of the past 3 years a competent authority in a different country or EU Member States has refused an authorisation for trade in items of strategic significance with substantially identical parameters and to the same end user or consignee as in the application for authorisation. In such a case, the trade control authority shall consult the competent authority in an EU Member State which refused the authorisation, and if the trade control authority issues

an authorisation, it shall notify thereof that other authority, attaching a detailed justification of its decision.

Article 13. If an entity knows of or has reasonable grounds to suspect past or potential irregularities in the trade in items of strategic significance, such an entity shall take every possible action to ensure the compliance with law or prevent irregularities, and to notify thereof the trade control authority.

Article 14. 1. Individual or global authorisations and rights resulting therefrom shall be non-transferable.

2. Individual or global authorisations shall be considered as documents of relevance to audits conducted by the Customs Service.

3. An original copy of the individual or global authorisation shall be attached to the customs declaration or application for the customs-approved treatment or use of goods.

4. For an individual or global authorisation for trade to be issued, compliance with additional requirements and conditions specified by the trade control authority may be required, and in particular submission of the end user's statement by the foreign end user or submission of the import certificate referred to in Article 23.

5. The validity period of an individual or global authorisation shall be defined therein; this period shall not be longer than 1 year for an individual authorisation, and not longer than 3 years for a global authorisation.

6. Individual or global authorisations shall be issued free of charge.

Article 15. 1. The trade control authority shall refuse, by way of a relevant administrative decision, an individual or a global authorisation for trade in dual-use items if:

- 1) such refusal is required to guarantee defence or security of the Republic of Poland;
- 2) such refusal is required by commitments of the Republic of Poland arising from international agreements and alliance arrangements;
- 3) an entity fails to guarantee that trade is carried out in conformity with the law;
- 4) these items may be intended, in their entirety or in part, for illegal purposes or contrary to the interests of the Republic of Poland, i.e. for the implementation, production, operation, handling, maintenance, storage, detection, identification or dissemination of weapons of mass destruction, and in particular of chemical, biological or nuclear weapons, or the implementation, production, maintenance, or storage of means capable of delivering such weapons.

2. The trade control authority may refuse, by way of a relevant administrative decision, an individual or a global authorisation for trade in dual-use items if:

- 1) there is a risk of change of the end-use or place of destination of these items;

2) the entity is in breach of regulations on trade in items of strategic significance.

Article 16. 1. The trade control authority shall refuse, by way of a relevant administrative decision, an individual or a global authorisation for trade in military goods if:

- 1) such refusal is required to guarantee the defence or security of the Republic of Poland;
- 2) if granted, such an authorisation would contravene the Republic of Poland's international commitments arising from international agreements and arrangements, in particular the international commitments:
 - a) to impose embargo on weapons or introduce sanctions adopted by the United Nations, the European Union and Organization for Security and Co-operation in Europe,
 - b) under the Treaty on the Non-Proliferation of Nuclear Weapons, done at Moscow, Washington and London on 1 July 1968 (Journal of Laws of 1970, No 8, item 60), the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, done at Moscow, London and Washington on 10 April 1972 (Journal of Laws of 1976, No 1, item 1), and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, done at Paris on 13 January 1993 (Journal of Laws of 1999, No 63, item 703).
 - c) as part of Australia Group, Missile Control Technology Regime, Zangger Committee, Nuclear Suppliers Group, Wassenaar Arrangement and Hague Code of Conduct Against Ballistic Missile Proliferation;
- 3) there is a risk that the military goods intended for export could be used in:
 - a) domestic repressions,
 - b) actions violating international humanitarian law;
- 4) there is a risk that the military goods intended for export could be used to start or prolong a military conflict or to deepen existing tensions or conflicts in the end user's country;
- 5) there is a risk that a foreign consignee's country will use the military goods intended for export against another country, in particular in the case of an ongoing or a likely military conflict between a foreign consignee's country and another country, or when a foreign consignee's country makes territorial claims against another country, which has attempted or threatened to enforce such claims by force in the past;
- 6) an entity cannot provide a guarantee that trade is carried out in conformity with the law;
- 7) there is a risk that the military goods intended for export may be used, in their entirety or in part, for illegal purposes or contrary to the interests of the Republic of Poland, i.e. for the production, operation, handling, maintenance, storage or identification of military goods.

2. The trade control authority may refuse, by way of a relevant administrative decision, an individual or a global authorisation for trade in military goods if:

- 1) if granted, such an authorisations would adversely affect:
 - a) defence and security interests of the Republic of Poland, other EU Member States, as well as allied countries,
 - b) respect for human rights,
 - c) peace, security and stability in the region;
- 2) there is a risk that the military goods intended for export will be used against the armed forces of EU Member States and allied countries;
- 3) the end user's country:
 - a) supports terrorism or international organized crime,
 - b) fails to honour international commitments, in particular regarding the non-use of force and international humanitarian law,
 - c) is not involved in the non-proliferation of nuclear weapons, arms control and disarmament, in particular it has failed to sign, ratify or implement the Treaty on the Non-Proliferation of Nuclear Weapons and the conventions referred to in paragraph 1 (1) (b);
- 4) there is a risk of change of the end user and final destination, or that military goods will be re-exported on undesirable terms;
- 5) military goods intended for export do not correspond with the technical and economic capabilities of the consignee's country;
- 6) the entity is in breach of regulations concerning trade in items of strategic significance.

3. The trade control authority shall notify the competent authorities in EU Member States of refusing an authorisation for trade in military goods for reasons specified in paragraphs 1 and 2, attaching a justification of the refusal.

Article 17. 1 The trade control authority may withdraw or change an individual or a global authorisation, by way of a relevant administrative decision, if:

- 1) the conditions specified in Article 15 and Article 16 (1) and (2) are met;
- 2) the entity conducting trade is in breach of terms and conditions specified in an individual or a global authorisation;
- 3) the entity cannot provide a guarantee that trade is carried out in conformity with the law.

2. Before issuing a decision on whether to withdraw or change an individual or a global authorisation, the trade control authority may request an opinion of advisory authorities. Articles 12 (2) and 12a shall accordingly apply to such an opinion.

3. No compensation shall be claimed in the case of withdrawal or change of an individual or global authorisation for reasons attributable to the entity.

Art. 17a. 1. The trade control authority shall be competent for:

- 1) carrying out the information tasks specified in Article 4 (1)-(3) and (6), Article 5 (1), Article 8 (2) and (3), Article 9 (4) (b) and (c) and (6), Article 11 (2), Article 13, Article 17 (2) and Article 25 of Regulation No 428/2009;
- 2) deciding whether or not it is expedient to make the export of dual-use items not listed in Annex I to Regulation No 428/2009 subject to authorisation in the case referred to in Article 4 (4) of Regulation 428/2009;
- 3) prohibiting transit in the case referred to in Article 6 (1) of Regulation No 428/2009;
- 4) supplying the European Commission with the list referred to in Article 10 (4) of Regulation No 428/2009;
- 5) requesting and issuing opinions in the case referred to in Article 11 (1) of Regulation No 428/2009;
- 6) requesting a competent authority in a EU Member State not to grant, annul, suspend, modify or revoke an authorisation in the case referred to in Article 11 (2) sentence one of Regulation No 428/2009, and to engage in consultations, pursuant to Article 11 (2) sentence two of Regulation No 428/2009, with a competent authority in the EU Member State which has requested the trade control authority not to grant, annul, suspend, modify or revoke an authorisation;
- 7) performing the tasks referred to in Article 13 (2) of Regulation No 428/2009;
- 8) in the event of meeting the criteria specified in Article 16 (3) (a) and (b) or Regulation No 428/2009, deciding to suspend the export from the territory of the Republic of Poland of the dual-use items listed in Annex I to Regulation No 428/2009 which are covered by a valid export authorisation;
- 9) consulting a competent authority in another EU Member State in the case referred to in Article 16 (4) of Regulation No 428/2009;
- 10) request:
 - a) exporters or brokers, in accordance with Article 20 (3) of Regulation No 428/2009, to produce, in the manner set forth in the Code of Administrative Procedure, the records or registers and documents specified in Article 20 (1) and (2) of Regulation No 428/2009,
 - b) entities conducting intra-EU transfer to produce, in the manner set forth in the Code of Administrative Procedure, the documents and registers specified in Article 22 (8) of Regulation No 428/2009;
- 11) provide additional information in the case referred to in Article 22 (9) of Regulation No 428/2009;
- 12) inform the European Commission and the competent authorities in EU Member States about the measures taken pursuant to Article 22 (5) of Regulation No 428/2009;
- 13) appoint the Republic of Poland's representative to the Dual-Use Coordination Group referred to in Article 23 of Regulation No 428/2009.

2. The trade control authority may request an opinion of advisory authorities before issuing a decision on whether to make export of the dual-use items not listed in Annex I to Regulation No 428/2009 subject to authorisation in the case referred to in Article 4 (4) of Regulation No 428/2009, and a decision on prohibiting the transit referred to in Article 6 (1) of Regulation No 428/2009. Provisions of Articles 12 (2) and 12a shall apply accordingly.

Article 18. (repealed).

Article 19. (repealed).

Article 20. 1. Export, import or transit of items of strategic significance shall be carried out in designated customs offices.

2. The competent Minister of Public Finance shall adopt a regulation to specify the customs offices referred to in paragraph 1 above, with a view to ensuring appropriate controls of export, import, and transit of items of strategic significance.

3. The trade control authority shall notify the European Commission of the customs offices which are authorized to clear the export, import and transit of items of strategic significance.

Article 21. 1. The trade control authority shall keep a register of individual and global authorisations issued as well as entities using general authorisations, hereinafter referred to as “the Register”.

2. (repealed).

3. An individual or global authorisation shall be entered in the Register immediately after it is issued. An entity shall be entered in the Register immediately after the statement referred to in Article 8 (3) is submitted.

4. The competent Minister of Economy shall adopt a regulation to determine the procedure of keeping the Register, in particular taking into consideration the type of authorisations issued as well as the quantity and value of items of strategic significance covered by the authorisation.

Chapter 2a

Monitoring the import or intra-EU transfer of dual-use items used in telecommunications or for information security

Article 21a. The monitoring authority shall monitor the import or intra-EU transfer within the territory of the Republic of Poland of dual-use items used in telecommunications or for information security, as specified in Part 1: “Telecommunications” 5A001a and 5A001b4, or in Part 2: “Information security” of category 5 in Annex I to Regulation No 428/2009.

Article 21b. 1. Before carrying out the import or intra-Community transfer within the territory of the Republic of Poland of dual-use items specified in Article 21a, an entity resident or established in the territory of the Republic of Poland shall notify the monitoring authority in writing of the intention to carry out the import or intra-EU transfer of these items, hereinafter referred to as the “Notification”.

2. The provision of paragraph 1 shall accordingly apply to foreign entities.
3. An organizational unit subordinate to the Minister of National Defence shall also submit the Notification to the Head of the Military Counterintelligence Service.
4. The Notification shall be submitted to the monitoring authority not later than within 14 days prior to the intended date of import or intra-EU transfer within the territory of the Republic of Poland.
5. The Notification is a document of importance for the audit conducted by Customs Service bodies.

Article 21c. 1. The Notification shall comprise:

- 1) name of the notifying entity, their registered office or residential address;
 - 2) name of the entity authorized to receive dual-use items, their registered office or residential address;
 - 3) name of the producer and end user, their registered offices or residential addresses;
 - 4) designation of dual-use items to be subject to import or intra-EU transfer within the territory of the Republic of Poland, their description, quantity and value;
 - 5) intended use of dual-use items by the end user;
 - 6) country of final destination;
 - 7) statement of the entity with a commitment to take any action necessary to deliver declared items to the end user.
2. An entity resident or established in the territory of the Republic of Poland shall notify the monitoring authority of any changes of data referred to in paragraph 1 above, within 14 days after such changes occur.
 3. The provision of paragraph 2 shall accordingly apply to the buyer if the ownership right to the dual-use items listed in the Notification is transferred to such buyer.
 4. In the case of import or intra-EU transfer within the territory of the Republic of Poland of items and technologies related to the security of confidential information, the entity resident or established in the territory of the Republic of Poland shall attach to its notification (if required) a copy of the concession to carry out trade in products and technologies to be used for military or police purposes, as defined in the Act of 22 June 2001 on Conditions of Business Activity related to the Production of and Trade in Explosives, Weapons and Ammunition, as well as Products and Technologies to be used for Military or Police Purposes (Journal of Laws of 2012, item 1017).
 5. If completion of missing data in the Notification is required, the entity resident or established in the territory of the Republic of Poland shall be requested by the monitoring authority to complete the missing data within 7 days after such request is received.
 6. The period referred to in paragraph 5 above may be prolonged at a justified request of the en-

tity resident or established in the territory of the Republic of Poland, provided that such request is justified and submitted before the expiry of this period.

7. If the missing data in the Notification is not completed by the date referred to in paragraph 5 or 6, the Notification shall not be accepted.

8. A sworn translation into Polish is required for all documents drawn up in a foreign language and attached to the Notification.

9. The Prime Minister shall adopt a regulation to specify the model form of Notification, taking into account the data referred to in paragraph 1, and the types of items subject to import or intra-EU transfer within the territory of the Republic of Poland.

Article 21d. The monitoring authority shall notify the Head of the Foreign Intelligence Agency of any import or intra-EU transfer within the territory of the Republic of Poland of cryptographic equipment, specifying the importer or consignee data and the types of imported or transferred equipment.

Chapter 2b

Consignee credibility certificate

Article 21e. A consignee credibility certificate, issued by the Head of the Internal Security Agency (hereinafter “ISA Head”) by way of administrative decision, shall certify the credibility of an entrepreneur who is resident or established in the territory of the Republic of Poland, and who is a consignee of military goods delivered under general authorisations for intra-EU transfer, issued by the competent authorities in other EU Member States.

Article 21f. A consignee credibility certificate issued by the competent authority of an EU Member State other than Poland shall be valid in the territory of the Republic of Poland.

Article 21g. 1. A consignee credibility certificate shall be issued upon an application of the entrepreneur referred to in Article 21e.

2. An application for the consignee credibility certificate shall comprise:

- 1) consignee’s identification data;
- 2) statement on the consignee’s capital structure and ties;
- 3) the number of the concession to trade in military goods referred to in the Act of 22 June 2001 on Conditions of Business Activity related to the Production of and Trade in Explosives, Weapons and Ammunition, as well as Products and Technologies to be used for Military or Police Purposes.

3. The Prime Minister shall specify, by way of regulation, the model application for the consignee credibility certificate, taking into account the data referred to in paragraph 2, as well as the types of military goods.

Article 21h. 1. The consignee credibility certificate shall be issued if an entrepreneur:

- 1) conducts business activity within the European Union related to military goods, in particular in the field of the integration of systems and subsystems;
- 2) appoints an employee carrying out management tasks who is responsible for intra-EU transfers and export of military goods;
- 3) to the application referred to in Article 21g (1) attaches the following:
 - a) written commitment to comply with and enforce the terms and conditions of the final use and export or intra-EU transfer of military goods,
 - b) written commitment to provide the ISA Head with documents necessary to verify the information referred to in item d) and in Article 21g (2), and a confirmation of meeting the conditions referred to in items 1) and 2), and to provide information concerning end users and the final destination of military goods which are subject to export or intra-EU transfer from and into the territory of the Republic of Poland,
 - c) copy of the certificate of conformity referred to in Article 11 (5),
 - d) list of contracts in the field of trade in military goods which have been concluded within 6 months prior to the filing of the application,
 - e) written commitment to inform the ISA Head about changes of the data covered by the application.

2. Before issuing a consignee credibility certificate, the ISA Head may request an opinion about the lack of grounds for not issuing a consignee credibility certificate of the trade control authority, the Head of the Foreign Intelligence Service, the Head of the Central Anti-Corruption Bureau, the Head of the Military Intelligence Service, the Head of the Military Counterintelligence Service, the Commander-in-Chief of the Police, the Commander-in-Chief of the Border Guard, the competent Minister of Foreign Affairs, and the competent Minister of Finance. Provisions of Articles 12 (2) and 12 a shall apply accordingly.

3. When issuing a consignee credibility certificate, the ISA Head may refrain from justifying his/her decision, or limit such justification on the grounds of national security or public order.

Article 21i. Upon the ISA Head's request, government administration bodies, State bodies, local government bodies, courts and public utility entrepreneurs shall furnish information to the extent necessary to issue or withdraw a consignee credibility certificate.

Article 21j. The consignee credibility certificate shall be issued for a period of 5 years.

Article 21k. 1. The consignee credibility certificate shall comprise:

- 1) name of the issuing authority;
- 2) name and address of the consignee;
- 3) certification of the consignee's credibility issued on the basis of Article 21h (1);
- 4) date of issue and term of validity of the certificate.

2. The Prime Minister shall specify, by way of regulation, a specimen consignee credibility certificate, taking into account the data referred to in paragraph 1.

Article 21l. The ISA Head shall be responsible for auditing consignees' fulfilment of the conditions and commitments specified in Article 21h (1). Provisions of Articles 30 and 32 shall apply accordingly.

Article 21m. By way of administrative decisions, the ISA Head shall refuse or withdraw a consignee credibility certificate when the consignee fails to meet the conditions laid down in Article 21h (1) or is in breach of regulations on trade in items of strategic significance. The provision of Article 21h (3) shall apply accordingly.

Article 21n. The ISA Head shall pass on a copy of his/her decision withdrawing the consignee credibility certificate to the trade control authority.

Article 21o. The trade control authority shall notify the European Commission and the competent authorities of the EU Member States of withdrawals of consignee credibility certificates.

Article 21p. 1. The ISA Head shall keep a register of certified consignees who are resident or established in the territory of the Republic of Poland.

2. The ISA Head shall send the register referred to in paragraph 1 to the trade control authority, which shall send it to the European Commission, the European Parliament and the competent authorities in EU Member States.

Article 21q. The competent Minister of Foreign Affairs shall inform the competent authorities in EU Member States that a consignee who holds a consignee credibility certificate creates in another country a risk of non-compliance with the terms and conditions of a national general authorisation for intra-EU transfer of military goods, or that such a consignee has violated public security or vital interests of national security, and, as far as necessary, shall request these authorities to furnish explanations.

Chapter 3

Import certificate and end user statement

Article 22. 1. If required by the competent authorities in the country of the foreign exporter, the trade control authority, at the request of the entity, may issue an import certificate or certify an end user statement.

1a. As far as required by the competent authorities in the foreign exporter's country, the trade control authority may, within the scope of certification of the end user statement, commit itself to recognize the restrictions and conditions applicable to trade in items of strategic significance, as laid down by these authorities.

1b. Should the conditions and restrictions laid down by the competent authorities of the foreign exporter's country not be met, the trade control authority may refuse an authorisation for foreign trade in items of strategic significance which is covered by the statement of an end user who is established or resident in the Republic of Poland.

2. Provisions of Article 9 (2), (6) and (7) shall apply to the application for an import certificate or certification of an end user statement.

2a. Before issuing an import certificate or certifying an end user statement, the trade control authority may request an opinion of advisory authorities. Provisions of Articles 12 (2) and 12a shall apply accordingly.

3. The import certificate and certified end user statement are documents to be presented to competent authorities outside the territory of the Republic of Poland and shall confirm reliability of the entity and control of transactions related to import or intra-EU transfer of items of strategic significance into the territory of the Republic of Poland by the competent authorities of the Republic of Poland.

3a. Entities supplying items of strategic significance which are established or resident in the territory of the Republic of Poland shall document the fact of having informed entities receiving items of strategic significance about the terms and conditions of an authorisation for trade in items of strategic significance, including any restrictions on disposing of items of strategic significance. In the case of the trade control authority's certification of the end user statement in respect of items of strategic significance or their elements which are subject to trade, such information shall be provided along with the number and date of the certification and the end user's name.

4. (repealed).

5. (repealed).

6. The trade control authority may refuse to issue an import certificate or certify an end user statement, if facts referred to in paragraph 3 above cannot be confirmed because there is no guarantee that trade in items of strategic significance is carried out in conformity with the law, or because the internal control system has not been implemented by the entity.

7. The competent Minister of Economy shall specify by way of regulation the model form of an import certificate, taking into account the data referred to in paragraph 8.

8. In particular, the model certificate referred to in paragraph 7 above shall specify the following data: the importer's or consignee's name, the foreign exporter's name, their registered offices and addresses, the name and description of items of strategic significance, the control number, the quantity and value, the description of the end-use of items of strategic significance, as well as a statement that the importer or consignee:

- 1) has undertaken to import the items of strategic significance declared in the certificate into the territory of the Republic of Poland and immediately notify the trade control authority of any changes in the terms and conditions of the contract;
- 2) has declared to be aware that re-export or further intra-EU transfer from the territory of the Republic of Poland, or any change of the end user or the declared end-use of items of strategic significance requires a prior approval of the trade control authority;
- 3) has agreed with the end user to enable the control of conformity of use of items of strate-

gic significance with provisions of the authorisation, to be carried out by the trade control authority with the participation of officials from the foreign exporter's country (if required) in the place of their use, in the entire period when these items remain in the territory of the Republic of Poland.

Article 23. 1. In the case of export or intra-EU transfer of items of strategic significance from the territory of the Republic of Poland, the trade control authority shall require the entity to submit an import certificate or end user statement certified by the competent authorities in the country of the foreign exporter or consignee.

2. An end user statement shall be issued by a foreign end user and shall contain information required by the trade control authority.

3. The statement referred to in paragraph 2 above shall also be certified by the foreign importer and the competent authorities in the country of final destination.

3a. The statement referred to in paragraph 2 is a document in which the foreign end user and importer or consignee shall undertake to comply with the provisions on disposing of and using the items of strategic significance which are covered by the statement.

4. In particular, the statement referred to in paragraph 2 above shall specify the following data:

- 1) name and address of the exporter or supplier;
- 2) name of items of strategic significance, their description, designation, quantity, value and control number;
- 3) description of the end use of items of strategic significance;
- 4) the country of final destination;
- 5) name and address of the foreign end user;
- 6) end user's commitment not to pass military goods to consignees in a country covered by an arms embargo, if military goods are the subject of trade;
- 7) end user's commitment not to pass items of strategic significance on to any other entities without a prior approval of the trade control authority;
- 8) certification by a competent authority in the end user's country stating that the end user has taken on the commitments referred to in item 6) or 7), and a representation by a competent authority in the end user's country that the end user is authorized to possess items of strategic significance;
- 9) commitment by a competent authority in the end user's country stating that without a prior approval of this authority no authorisation shall be granted for export, sale, lending or disposing of items of strategic significance covered by the statement, other than in the manner defined in the end user statement;
- 10) name and address of the foreign importer or consignee;
- 11) importer's or consignee's commitment not to pass any military goods on to consignees

in a destination country covered by an arms embargo, if military goods are the subject of trade;

- 12) importer's or consignee's commitment not to pass items of strategic significance on to any consignees other than the end user without a prior approval of the trade control authority;
- 13) certification by a competent authority in the importer's or consignee's country stating that the importer or consignee has taken on the commitments referred to in item 11) or 12), and a representation by a competent authority in the importer's or consignee's country that the importer or consignee is authorized to possess items of strategic significance;
- 14) intermediate buyers, if applicable.

5. The statement referred to in paragraph 2 may not include one or more elements listed in paragraph 4 (7)-(9), (12) and (13), in the event that the end user's or importer's country has in place a trade control system, and in particular if such country is party to the international agreements referred to in Article 16 (1) (2) (b) and (c), and provided that:

- 1) items of strategic significance are of a low level of technological advancement, these items are non-lethal or are no key part or component of such items, or
- 2) the end user has the status of State authority or entity.

6. In the event of military goods exports to end users who are established outside the territory of the European Union, excluding end users who are established in the countries listed in Part 2 of Annex IIa to Regulation No 428/2009, a Polish diplomatic mission or consular office shall confirm the authenticity of the signature of a person who represents a foreign trade control authority and has certified the statement referred to in paragraph 2, as well as the conformity of this statement with the law of the place of issue.

Article 24. 1. Any entity which has received an import certificate shall have the right, within 30 days after items of strategic significance are released or received, to apply to the head of the customs office in the end user location for the issue of a delivery verification certificate confirming that items covered by this certificate were actually brought into the territory of the Republic of Poland by the entity and were imported in compliance with the law.

2. Issue of a delivery verification certificate shall be subject to provisions of section VII of the Code of Administrative Procedure.

3. An entity shall reimburse any costs incurred by a Customs Service body in the course of proceedings related to the issue of a delivery verification certificate.

4. In particular, the delivery verification certificate shall specify the following data:

- 1) name of importer or consignee, name of exporter or supplier, their registered offices and addresses;
- 2) name and description of items of strategic significance;
- 3) control number, quantity and value, description of the end-use of items of strategic significance;

4) number of the customs declaration, number of the consignment note, bill of lading or any other document confirming the import of items of strategic significance, as well as a confirmation that the importer or consignee has provided reliable proof of completing the delivery, and has brought the items of strategic significance listed in the certificate into the territory of the Republic of Poland in compliance with law.

5. The competent Minister of Public Finance shall adopt a regulation to define the model form of the delivery verification certificate and methods of recording such certificates, taking into account the elements listed in paragraph 4 and with a view to ensuring the verification of recorded data.

6. In the case of export or intra-EU transfer of items of strategic significance from the territory of the Republic of Poland, the trade control authority may require the entity to submit the delivery verification certificate issued by the competent authorities in the importer's or consignee's country.

Chapter 4

Records of trade in items of strategic significance and trade-related information

Article 25. 1. Any entity trading in items of strategic significance shall keep records of this trade.

2. In particular, the records referred to in paragraph 1 shall comprise the following data:

- 1) description of items of strategic significance and their designation;
- 2) quantity and value of items of strategic significance;
- 3) dates of trade;
- 4) name and address of the exporter or supplier or of the importer or consignee;
- 5) final destination and designation of the end user;
- 6) confirmation that the consignee of items of strategic significance was informed about export restrictions related to a transfer authorisation.

3. Any entity trading in items of strategic significance shall store the entries, registers and documents making up the records referred to in paragraph 1 for the period of 5 years, starting from the end of the calendar year in which trade took place.

4. The competent Minister of Economy shall specify, by way of regulation, information gathered in the records referred to in paragraph 1 above, and the procedure for keeping such records, taking into account the requirements defined for the internal control system and the scope of data referred to in paragraph 2.

Article 26. 1. Any entity pursuing trade based on general authorisations shall submit relevant information related to this trade to the trade control authority, on an annual basis and by the end of the first quarter of the following year.

2. The competent Minister of Economy shall specify, by way of regulation, the scope of information referred to in paragraph 1 above, taking into account the recorded data referred to in Article 25 (2), and the types of items of strategic significance.

Article 27. At the request of advisory authorities, the trade control authority shall submit any information related to trade in items of strategic significance to these authorities.

Article 27a. 1. Any entity exporting military goods shall submit to the competent Minister of Foreign Affairs an annual report on the actual performance of such exports, by the end of April of the following year.

2. In particular, the report referred to in paragraph 1 shall include:

- 1) name, quantity and value of exported military goods;
- 2) control category;
- 3) numbers of authorisations used;
- 4) end user's country.

Article 27b. The competent Minister of Foreign Affairs shall specify, by way of regulation, the specimen report referred to in Article 27a (1), taking into account the information referred to in Article 27a (2) and the types of military goods.

Art. 27c. 1. The competent Minister of Foreign Affairs shall draw up an annual report on the exports of military goods, and shall submit it to the competent authorities in the EU Member States by the end of the third quarter of the following year.

2. The competent Minister of Foreign Affairs shall publish the report referred to in paragraph 1 by the end of the third quarter of the following year.

Chapter 5

Trade audit

Article 28. 1. Trade shall be subject to audit.

2. In particular, the audit shall include:

- 1) compliance of trade procedures with the respective authorisation, including verification of completed transactions;
- 2) efficiency of the internal control system;
- 3) accuracy of the records referred to Article 25.

3. The audit shall be carried out by the trade control authority in co-operation with the authorities referred to in Article 29 (2);

4. The trade control authority may request another competent state control authority to carry out the trade audit.

Article 29. 1. To carry out the audit referred to in Article 28 (1), the trade control authority may set up an audit team, hereinafter referred to as "the team".

2. At the request of the trade control authority, advisory authorities shall delegate officers, mem-

bers of the Army or employees of respective subordinate or supervised organisational units to take part in the work carried out by the team. The trade control authority may also appoint experts upon their consent to join the team.

3. The trade control authority shall appoint the team leader whose responsibility is to coordinate all audit tasks and draw up a relevant audit report.

4. Audit tasks shall be carried out based on an audit authorisation issued by the trade control authority.

5. The competent Minister of Economy shall specify, by way of regulation, the model form of the audit authorisation. In particular, a model audit authorisation shall specify the following data: the person involved, the type and number of his/her ID, the authorisation expiry date, as well as a statement that the person subject to audit shall provide required information and submit required documentation at the request of the holder of the audit authorisation carrying out audit tasks.

Article 30. 1. In particular, team members shall be entitled to:

- 1) enter the property, building or facility, or their respective parts, where the person subject to audit is pursuing its business activities, at the hour and on the day when these activities are or should be carried out;
- 2) require oral or written clarification, documentation, or any other carriers of information, as well as access to data related to the subject of the audit.

2. Business activities of an entrepreneur shall be audited in the presence of the person subject to audit or a person authorized by him/her.

2a. In the absence of the persons referred to in paragraph 2, audit tasks may be carried out in the presence of another employee of the person subject to audit who may be regarded as the person referred to in Article 97 of the Act of 23 April 1964 – Civil Code (Journal of Laws No 16, item 93, as amended), or in the presence of an appointed witness who should be a public officer but may not be an employee of the audit authority.

3. The team leader shall submit an audit report to the person subject to audit, who shall have the right to make his/her comments within 14 days after its receipt.

3. The team leader shall submit the audit report and the comments made by the person subject to audit to the trade control authority.

Article 31. 1. If any trade-related irregularities are identified, the entity shall be requested by the trade control authority to ensure compliance with provisions of this Act within 1 month after such request is received.

2. After the period referred to in paragraph 1 above has expired and no action has been taken, the trade control authority shall withdraw an individual or global authorisation by way of a relevant administrative decision. If the case concerns a general authorisation, the trade control authority shall issue an administrative decision whereby the entity is forbidden to use this authorisation. The trade control authority shall inform advisory authorities of such a decision.

3. In the case referred to in paragraph 2 above, the entity may be granted another individual or global authorisation or may use a general authorisation not sooner than after a year following the date when the decision to withdraw the individual or global authorisation or to forbid such person to use a general authorisation, came into force.

Article 32. Provisions of Chapter 5 of the Freedom of Economic Activity Act of 2 July 2004 shall apply to auditing business activities of entrepreneurs.

Chapter 6

Penal provisions and financial penalties

Article 33. 1. Any person pursuing trade without a relevant authorisation or contrary to the conditions set forth in the authorisation, however unintentionally, shall be punished by imprisonment for a term of 1 year to 10 years.

2. If the person carrying out trade contrary to conditions set forth in the authorisation acts with no intent, and if this person takes the actions referred to in Article 31 (1), this person shall be liable to a fine, restriction of liberty or imprisonment of up to 2 years.

2a. Any person providing false or incomplete information in his/her application for trade authorisation shall be liable to a fine, restriction of liberty or imprisonment of up to 2 years.

3. Any person committing the act referred to in paragraph 1 or 2 above shall be liable to the penalty referred to in paragraph 1 above.

4. If a person is convicted of the offence referred to in paragraphs 1-3 above, the court may issue a forfeiture order in respect of items of strategic significance or other items used or designated for use in order to commit an offence, or resulting either directly or indirectly from such offence, including cash and securities, even if these items are not the offender's property.

Article 34. Any person who does not satisfy the obligation referred to in Article 26 (1) shall be liable to a fine.

Article 35. Any person who obstructs the audit procedures referred to in Article 28 (1) shall be liable to a fine.

Article 35a. Any person who does not satisfy the obligation referred to in Article 21c (2) shall be liable to a fine.

Article 36. Ruling in the cases referred to in Articles 34, 35 and 35a shall be subject to provisions of the Act of 24 August 2001 – Petty Offences Procedure Code (Journal of Laws of 2008, No 133, item 848, as amended).

Article 37. Any legal person or organisational unit without legal personality, provided it possesses legal capacity, which is carrying out trade without a valid authorisation shall be liable to a financial penalty of up to PLN 200,000 imposed by the trade control authority by way of a relevant administrative decision.

Article 37a. Any entity which carries out import or intra-EU transfer of the dual-use items referred to in Article 21a into the territory of the Republic of Poland without submitting a notification of intended import or intra-EU transfer into the territory of the Republic of Poland to the monitoring authority shall be liable to a financial penalty of up to PLN 100,000 imposed by the trade control authority by way of a relevant administrative decision.

Article 37b. Any entity which does not satisfy the obligations referred to in Article 8 (3), Article 22 (3a), Article 25 (1) and Article 27a (1) shall be liable to a financial penalty of up to PLN 100,000 imposed by the trade control authority by way of a relevant administrative decision.

Article 38. Any legal person or organisational unit without legal personality, provided it possesses legal capacity, which carries out trade contrary to the conditions set forth in the authorisation or which provides false or incomplete information in the authorisation application shall be liable to a financial penalty of up to PLN 100,000 imposed by the trade control authority by way of a relevant administrative decision.

Article 39. Any legal person or organisational unit without legal personality, provided it possesses legal capacity, failing to satisfy the obligations or requirements referred to in Article 26 (1) shall be liable to a financial penalty of up to PLN 50,000 imposed by the trade control authority by way of a relevant administrative decision.

Article 40. 1. Financial penalties shall not be imposed after the period of 5 years following the date when the basis for liability referred to in Articles 37-39 was identified.

2. An imposed financial penalty shall not be collected after the period of 5 years following the date when the decision to impose such a penalty came into force.

Article 41. 1. The payment date of a financial penalty shall be 30 days after the date when the decision to impose such a penalty came into force.

2. Financial penalties not settled by the payment date shall be collectible along with default interest pursuant to provisions of the administrative enforcement procedure.

Article 42. If the payment of the imposed penalty by the payment date referred to in Article 41 (1) considerably limits or prevents further business activities of the entity, the trade control authority may, if requested by the entity, issue an administrative decision to prolong the payment date or accept payment in instalments spread over a period up to 1 year.

Chapter 7

Amendments of existing provisions

Article 43. In the Act of 9 January 1997 – Customs Code (Journal of Laws No 23, item 117, No 64, item 407, No 121, item 770, No 157, item 1026 and No 160, item 1084, of 1998 No 106, item 668 and No 160, item 1063, of 1999 No 40, item 402 and No 72, item 802 and of 2000 No 22, item 269), Article 14 (6a) shall read as follows:

“§ 6a. Provisions of Articles 17, 18 and 20 of the Act of 11 December 1997 on Administering of Foreign Trade in Goods and Services (Journal of Laws No 157, item 1026, of 1999 No 55, item 587

and No 101, item 1178 and of 2000 No 119, item 1250) shall apply to the authorisations referred to in paragraph 6.”

Article 44. The Act of 11 December 1997 on Administering of Foreign Trade in Goods and Services and on Special Trade (Journal of Laws No 157, item 1026 and of 1999 No 55, item 587 and No 101, item 1178) shall be amended as follows: (amendments omitted).

Article 45. In the Act of 10 September 1999 on Certain Compensation Contracts Related to Delivery Contracts for the Purposes of State Defence and Security (Journal of Laws No 80, item 903), Article 3 (5) shall read as follows:

“5) military goods or equipment – shall be understood as military goods within the meaning of the Act of 29 November 2000 on Foreign Trade in Goods, Technologies and Services of Strategic Significance for State Security and for Maintaining International Peace and Security, and on Amending Certain Other Acts (Journal of Laws No 119, item 1250),”.

Article 46. In the Act of 7 October 1999 on Supporting Restructuring Process of Defence Industry Potential and Technical Modernization of Polish Armed Forces (Journal of Laws No 83, item 932), Article 4 (6) shall read as follows:

“6) military goods or equipment – shall be understood as military goods within the meaning of the Act of 29 November 2000 on Foreign Trade in Goods, Technologies and Services of Strategic Significance for State Security and for Maintaining International Peace and Security, and on Amending Certain Other Acts (Journal of Laws No 119, item 1250),”.

Chapter 8

Temporary and final provisions

Article 47. Proceedings which have been initiated in accordance with provisions of the acts referred to in Articles 44 and 51, and which have not been concluded by a final decision by the day this act enters into force, shall be discontinued.

Article 48. 1. On the day this act enters into force, authorisations for import, export or transit of goods and technologies which are listed as goods and technologies subject to special control, issued on the basis of Article 3 (1) of the Act of 2 December 1993 on Rules for Special Control of Foreign Trade in Goods and Technologies Related to International Agreements and Commitments (Journal of Laws No 129, item 598, of 1996 No 106, item 496, of 1997 No 88, item 554 and No 157, item 1026 and of 1999 No 70, item 775 and No 83, item 931) shall become individual authorisations within the meaning of Article 7 (1) (1) and shall retain their validity for the period they were issued for, but no longer than until 31 December 2001.

2. On the day this act enters into force, authorisations issued on the basis of Article 38 (1) of the Act of 11 December 1997 on Administering of Foreign Trade in Goods and Services and on Special Trade (Journal of Laws No 157, item 1026 and of 1999 No 55, item 587 and No 101, item 1178) shall become – inasmuch as they are concerned with special trade – individual authorisations within the meaning of Article 7 (1) (2) and shall retain their validity for the period they were issued for, but no longer than until 31 December 2001.

Article 49. Executive regulations on lists of goods and technologies subject to special foreign trade control which were issued pursuant to the then existing legislation prior to the entry into force of this act shall remain in force until executive regulations have been issued based on this act, but no longer than for 6 months after the entry into force of this act.

Article 50. 1. Until provisions of Article 9 (4) (1) and (4) and Article 10 (1) come into force, individual authorisations may be issued to entrepreneurs who, prior to the entry into force of this act, have been entered in the register of entrepreneurs carrying out special foreign trade pursuant to Article 33 of the Act of 11 December 1997 on Administering of Foreign Trade in Goods and Services and on Special Trade, as well as to entrepreneurs who will present the certificate referred to in Article 11 (4).

2. Until Article 8 (2) comes into force, only individual authorisations shall be issued for trade in dual-use items.

Article 51. The Act of 2 December 1993 on Rules for Special Control of Foreign Trade in Goods and Technologies Related to International Agreements and Commitments (Journal of Laws No 129, item 598, of 1996 No 106, item 496, of 1997 No 88, item 554 and No 157. item 1026, and of 1999 No 70, item 775 and No 83, item 931) is hereby repealed.

Article 52. The Act shall come into force on 1 January 2001, save for:

- 1) Article 8 (2) – effective after 3 years after the date of its publication;
- 2) Article 9 (4) subparagraphs 1 and 4, as well as Article 10 (1) – effective as of 1 January 2003.

Brief descriptions of EU Common Military List Categories

- ML 1. Smooth-bore weapons with a calibre of less than 20 mm, other arms and automatic weapons with a calibre of 12.7 mm (calibre 0.50 inches) or less and accessories, and specially designed components therefore.
- ML 2. Smooth-bore weapons with a calibre of 20 mm or more, other weapons or armament with a calibre greater than 12.7 mm (calibre 0.50 inches), projectors and accessories, and specially designed components therefore.
- ML 3. Ammunition and fuse setting devices, and specially designed components therefore.
- ML 4. Bombs, torpedoes, rockets, missiles, other explosive devices and charges and related equipment and accessories, and specially designed components therefore.
- ML 5. Fire control, and related alerting and warning equipment, and related systems, test and alignment and countermeasure equipment, specially designed for military use, and specially designed components and accessories therefore.
- ML 6. Ground vehicles and components.
- ML 7. Chemical or biological toxic agents, 'riot control agents', radioactive materials, related equipment, components and materials.
- ML 8. 'Energetic materials', and related substances.
- ML 9. Vessels of war, (surface or underwater) special naval equipment, accessories, components and other surface vessels.
- ML 10. 'Aircraft', 'lighter than air vehicles', unmanned airborne vehicles, aero-engines and 'aircraft' equipment, related equipment and components, specially designed or modified for military use.
- ML 11. Electronic equipment, not controlled elsewhere on the EU Common Military List, and specially designed components therefore.
- ML 12. High velocity kinetic energy weapon systems and related equipment, and specially designed components therefore.
- ML 13. Armoured or protective equipment, constructions and components.
- ML 14. Specialised equipment for military training or for simulating military scenarios, simulators specially designed for training in the use of any firearm or weapon specified by ML1 or ML2, and specially designed components and accessories therefore.
- ML 15. Imaging or countermeasure equipment, specially designed for military use, and specially designed components and accessories therefore.

- ML 16. Forgings, castings and other unfinished products the use of which in a controlled product is identifiable by material composition, geometry or function, and which are specially designed for any products controlled by ML1 to ML4, ML6, ML9, ML10, ML12 or ML19.
- ML 17. Miscellaneous equipment, materials and ‘libraries’, and specially designed components therefore.
- ML 18. Production equipment and components of products referred to in the EU Common Military List.
- ML 19. Directed energy weapon systems (DEW), related or countermeasure equipment and test models, and specially designed components therefore.
- ML 20. Cryogenic and ‘superconductive’ equipment, and specially designed components and accessories therefore.
- ML 21. ‘Software’ specially designed or modified for the ‘development’, ‘production’ ‘use’ of equipment or materials controlled by the EU Common Military List.
- ML 22. ‘Technology’ for the ‘development’, ‘production’ or ‘use’ of items controlled in the EU Common Military List.

Attachment 3

Participation in multilateral arms control regimes

Country	Zangger Committee	Nuclear Suppliers Group	Australia Group	Missile Technology Control Regime	Wassenaar Arrangement
Argentina	x	x	x	x	x
Australia	x	x	x	x	x
Austria	x	x	x	x	x
Belgium	x	x	x	x	x
Belarus	x	x			
Brazil		x		x	
Bulgaria	x	x	x	x	x
Canada	x	x	x	x	x
China	x	x			
Croatia	x	x	x		x
Cyprus		x	x		
Czech Republic	x	x	x	x	x
Denmark	x	x	x	x	x

Estonia		x	x		x
Finland	x	x	x	x	x
France	x	x	x	x	x
Germany	x	x	x	x	x
Greece	x	x	x	x	x
Hungary	x	x	x	x	x
Iceland		x	x	x	
Ireland	x	x	x	x	x
Italy	x	x	x	x	x
Japan	x	x	x	x	x
Latvia		x	x		x
Lithuania		x	x		x
Luxembourg	x	x	x	x	x
Kazakhstan	x	x			
Malta		x	x		x
Mexico		x	x		x
The Netherlands	x	x	x	x	x
New Zealand	x	x	x	x	x
Norway	x	x	x	x	x
Poland	x	x	x	x	x
Portugal	x	x	x	x	x
Republic of Korea	x	x	x	x	x
Romania	x	x	x		x
Russian Federation	x	x		x	x
Serbia		x			
Slovakia	x	x	x		x
Slovenia	x	x	x		x
South Africa	x	x		x	x
Spain	x	x	x	x	x
Sweden	x	x	x	x	x
Switzerland	x	x	x	x	x
Turkey	x	x	x	x	x
Ukraine	x	x	x	x	x
United Kingdom	x	x	x	x	x
United States	x	x	x	x	x
Total	39	48	42⁴	34	41

⁴ The European Commission also has the status of an Australia Group member

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