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**ANNUAL REPORT ON CONTROL
OF THE EXPORT OF MILITARY MATERIAL,
SMALL ARMS FOR CIVILIAN USE
AND DUAL-USE GOODS AND TECHNOLOGY
IN THE CZECH REPUBLIC
FOR 2013**



Contents

Introduction.....	3
1. System used to control foreign trade in military material, small arms for civilian use and the export of dual-use goods and technology in the Czech Republic	4
1.1 Foreign trade in military material.....	4
1.2 Foreign trade in small arms for civilian use.....	6
Changes in the system of exports to countries outside the EU on the basis of Regulation of the European Parliament and of the Council (EU) No. 258/2012:	7
1.3 Import of pyrotechnic products manufactured outside the EU.....	9
1.4 Export of dual-use goods and technology.....	10
1.5 Overview of government budgetary revenue from MIT Licence Administration administrative operations	14
1.6 Role and status of state authorities and other parts of the control system	15
1.6.1 Ministry of Foreign Affairs (MoFA).....	15
1.6.2 Ministry of the Interior	18
1.6.3 Ministry of Defence	19
1.6.4 Ministry of Finance – General Customs Directorate	20
1.6.5 State Office for Nuclear Safety.....	21
1.6.6 Cooperation of control authorities and the public in export control	23
2 European Union and international cooperation in the control of conventional weapons.....	23
2.1 European Union.....	24
2.1.1 Council Common Position 2008/944/SZBP	24
2.1.2 User’s Guide to the EU Code of Conduct	26
2.1.3 Activities aimed at enhancing the control mechanisms of other countries	27
2.1.4 Position of the Czech Republic within the EU	27
3. International cooperation	28
3.1 Arms Trade Treaty	28
3.2 UN Action Programme to Prevent, Combat and Eradicate Illicit Trade in Small Arms and Light Weapons in All its Aspects	31
3.3 Cluster munitions	32
4. International control regimes.....	33
5. International embargos	35
6. Summary of Annexes.....	37

Introduction

Through Resolution No. 659 dated 21 August 2013 the government ordered the Minister of Industry and Trade to collaborate with the Minister of Foreign Affairs in 2014 to compile an Annual Report on Control of the Export of Military Material, Small Arms for Civilian Use and Dual-use Goods and Technology in the Czech Republic for 2013 and to submit it to the government by 30 June 2014 and also pass it on to the Chamber of Deputies and the Senate of the Czech Republic” (“Report”).

This Report was compiled by the Minister of Industry and Trade (MIT) using source materials from the Ministry of Foreign Affairs (MoFA), the Ministry of Defence (MoD), the Ministry of the Interior (Mol), General Customs Directorate (GCD) and the State Office for Nuclear Safety (SONS).

This Report respects the European Union (EU) methodology used for the preparation of consolidated annual reports and is the eleventh Report of its type.

The first section describes the system used to control trade in military material, trade in small arms for civilian use, the import of pyrotechnic products manufactured outside the EU and the export of dual-use goods and technology, including the role and status of authorities cooperating in the control process. It then assesses activities involved in international cooperation, information on progress with the preparation of the Arms Trade Treaty and UN activities involved in the control of small arms and light weapons as part of the Action Programme to Prevent, Combat and Eradicate Illicit Trade in Small Arms and Light Weapons in All its Aspects.

The next part of the Report contains information about the Czech Republic’s involvement in international inspections of regimes and describes the activities of the Wassenaar Arrangement (WA) in controlling exports of conventional weapons and dual-use goods and technology.

The last part of the Report provides an up-to-date overview of international weapons embargos, in the formulation and updating of which the Czech Republic has been actively involved within international organisations.

The document is supplemented by summaries giving figures on permits issued for foreign trade in military material and licences granted for business transactions and tables showing licenses granted for exports (sales), imports (purchases) and import with subsequent export (“brokering”), differentiated according to volume, country of final use and proportion of end users.

The figures were compiled using the Electronic License Management system (ELIS) for licensing and permits proceedings, which was introduced in early 2013, which has resulted in the more stable and secure storage of data, including classified information in accordance with Act No. 412/2005 Coll., on the Protection of Classified Information and Security Competence, as amended. ELIS has modernised

MIT services, greatly speeding up and simplifying permit proceedings and also making them more transparent.

1. System used to control foreign trade in military material, small arms for civilian use and the export of dual-use goods and technology in the Czech Republic

1.1 Foreign trade in military material

The system used to control foreign trade in military material is laid out by Act No. 38/1994 Coll., on foreign trade in military material, as amended ("Act No. 38/1994 Coll."), which defines the conditions for government authorisation and oversight responsibilities in areas where business activities could threaten the economic, foreign policy or security interests of the Czech Republic, as well as by Decree No. 210/2012 Coll., on the implementation of certain provisions of the Act. Act No. 38/1994 Coll. establishes procedures for the authorisation of trade, the conditions governing the granting and use of licences and the general control of trade in military material, including penalties for violations. The management and execution of the related licensing system is by law the responsibility of MIT.

The control of foreign trade in military material is a two-tier process in the Czech Republic. Business entity may market its products and services and enter into negotiations with foreign partners only after receiving the appropriate decision on the issue of a permit to engage in foreign trade in military material. In the case of imports and exports, the holder of a permit to engage in foreign trade in military material must be a legal entity based in the territory of the Czech Republic and from 30 June 2012, natural persons may also hold permits for transfers between EU countries.

Permits specify the various items of military material that a legal entity or natural person may trade in, as well as a list of countries that may be traded with. Permits are issued by the MIT Licence Administration after approval from MoFA, Mol and MoD.

For business transactions, the holder of a permit to engage in foreign trade in military material must apply for a licence, which may be valid for longer than one calendar year. This means that a licence may be used for several years. Licences also specify the conditions under which they may be used.

Decisions on the issue of a licence or the rejection of a licence application are taken by the MIT Licence Administration once it has received binding statements from the ministries concerned as listed below. A decision on the non-granting of a licence is issued if the applicant fails to meet the requirements stipulated by the law, or due to the foreign policy or security interests of the Czech Republic (account is also taken of Council Common Position 2008/944/SZBP and the shared denial database of EU member states).

The implementation of Directive of the European Parliament and of the Council 2009/43/EC into Act No. 38/1994 Coll., effective as of 30 June 2012, reduced paperwork and thus facilitated the movement of military material in cases where Czech entities engage in trade with partners from EU member states, which was strongly reflected in 2013 in the number of administrative proceedings. In particular, import licenses for transfer between EU countries were cancelled.

Also important for exporters are the provisions of the directive, under which a transfer export licence granted by the appropriate state authority is valid throughout the EU; for transit through another member state or for entry into another member state that state should no longer require any additional permits. This is in contrast to current practice in the export of military material outside the EU through another member state. The EU enables member states to obtain a so-called transit licence for reasons of public safety (taking account of Art. 36 of the Treaty on the Functioning of the EU (TFEU) and Council Common Position 2008/944/SZBP, amongst others).

The key question is whether the option granted by the EU to member states is used with the limits specified in Art. 36 TFEU, particularly whether or not it is abused and used to discriminate against exporters from other member states (in this case from the Czech Republic), i.e. whether the prohibition laid down in this article is met, i.e. that “these bans or restrictions, however, cannot be used as a means of arbitrary discrimination or a disguised restriction on trade between member states”.

The issue of transit licences can currently only be resolved on the general level, when this is permitted to member states by EU primary law, but it is essential to refer to specific cases where it would be possible to prove that this option is abused by a member state and is in contravention of EU law. In this respect **the proclaimed principles of common rules governing control of exports of military technologies cannot be overlooked, particularly the principle of enhanced cooperation, convergence and high common standards** within the EU and NATO countries.

By the end of 2013 there were 202 legal entities and one natural person holding a permit to engage in foreign trade in military material; a total of 59 new permits were issued. At the same time, there were 75 permit modifications relating to either the extension of items of military material in which a legal entity may trade, or the extension of the list of countries in which this trade is permitted. Two applications for territorial expansion relating to Belarus were rejected.

In 2013 1 128 licences were issued **for the export of military material**, worth 12 638.9 mil. CZK (486.6 mil. €). The value of trade deals made on the basis of licence usage, including licences granted in previous years (“usage”) was 7 431.2 mil. CZK (286.1 mil. €).

At the request of the Ministry of Foreign Affairs, in September 2013 the MIT Licence Administration

halted the export of military material to Egypt, due to the worsening of the situation in the region.

467 transfer export licences were issued for EU countries; usage amounted to 2 304.8 mil. CZK (88.7 mil. €). The most licences were issued for exports to the Slovak Republic (88), Poland (69) and Germany (55). In terms of value, the biggest exports were to the Slovak Republic – 465.9 mil. CZK (17.9 mil. €) and Poland – 328.1 mil CZK (12.63 mil. €) to Austria – 327.4 mil. CZK (12.6 mil. €) and Bulgaria – 226.4 mil. CZK (8.7 mil. €). The largest number of licences for export to countries outside the EU was issued to the United States of America (59), Israel (50) and Thailand (38). In terms of value, the biggest export was to Vietnam – 1124.6 mil. CZK (43.3 mil. €), the United States of America – 733.7 mil. CZK (28.2 mil. €) and Egypt – 631.7 mil. CZK (24.3 mil. €).

485 licences worth 27 090.9 mil. CZK (1 043 mil. €) were granted for **the import of military material**. The value of deals made on the basis of licence usage, including licences granted in previous years, was 1 573.8 mil. CZK (60.59 mil. €). On 30 June 2012 import licenses for transfer between EU countries were abolished.

For import with subsequent export (brokering) a total of 33 licences were issued with a total import value of 94.5 mil. CZK (3.6 mil. €) and a subsequent export value of 168.4 mil. CZK (6.5 mil. €). The value of trade on the basis of a licence upon import amounted to 78.2 mil. CZK (3.0 mil. €) and upon export 70.1 mil. CZK (2.7 mil. €). In terms of value, the biggest imports were from the Russian Federation – 28.6 mil. CZK (1.1 mil. €) with subsequent export to Bangladesh worth 31.2 mil. CZK (1.2 mil. €).

1.2 Foreign trade in small arms for civilian use

In the Czech Republic foreign trade in civilian weapons and ammunition is governed by Act No. 228/2005 Coll., on control of trade in products whose possession is regulated in the Czech Republic for security reasons (“Act No. 228/2005 Coll.”).

The Czech Republic is bound by joint EU rules governing the control of exports of military technologies and military material (Common Position 2008/944/SZBP) and other documents of an international legal nature, especially international sanctions concerning exports of weapons and ammunition.

A permit is not granted if all the applications requirements are not met, if it is in the security interests of the Czech Republic or if the applicant has had a permit revoked in the past. Under the law, a permit may only be revoked due to failure to comply with the conditions stipulated in the permit, incorrect data stated in an application or if required by the security interests of the Czech Republic.

Regulation of the European Parliament and of the Council (EU) No 258/2012 dated 14 March 2012 became effective as of 30 September 2013, implementing Article 10 of the United Nations Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, which supplements the United Nations Convention against Transnational Organized Crime (UN Firearms Protocol) and defines export permits, measures for the import and transit of firearms, their parts, components and ammunition.

This Regulation is binding and entirely directly applicable in all member states, with the proviso that some of its provisions must be implemented through the national legislation of EU member states.

The Czech Republic prepared for the implementation of these articles into the Czech legal system by passing an amendment to Act No. 228/2005 Coll., on control of trade in products whose possession is regulated in the Czech Republic for security reasons, and on the amendment to some other acts. At the same time a new implementing regulation was prepared for Act No. 228/2005 Coll., which is Government Regulation No. 282/2013 Coll., specifying the list of designated products, conditions under which they may be imported or transported, specifying certain conditions for designated products under which they may be exported, and specifying the details and formats of applications for permits and export permits, effective as of 30 September 2013.

Changes in the system of exports to countries outside the EU on the basis of Regulation of the European Parliament and of the Council (EU) No. 258/2012:

- The division of firearms, their parts, main components and ammunition upon import into third countries into 15 categories.
 - The duty to apply for a permit for the export of firearms, their parts, main components and ammunition to third countries and for non-commercial exports by a natural person or a legal person established in the Czech Republic.
- New types of permits for the export of firearms, their parts, main components and ammunition to third countries:
 - single permit for the individual shipment **of one or more firearms, their parts, main components and ammunition** to one specific recipient in a third country;
 - multiple permits for multiple shipments **of one or more firearms, their parts, main components and ammunition** to one specific recipient in a third country;
 - global permit for multiple shipments **of one or more firearms, their parts, main components and ammunition** to several specific recipients in one or more third countries.

- The applicant's duty to present the requisite documentation proving that the importing third country has permitted the relevant import of firearms, their parts, main components and ammunition.
- The applicant's duty to present the requisite documentation proving that the transit third country has no objections to the transit of firearms, their parts, main components and ammunition.

(Note: Not required in case of export by sea or air and through a third country port or airport, assuming there is no transshipment or change in the means of transport).

- The granting of a permit for the export of firearms, their parts, main components and ammunition to third countries on the basis of binding statements from MoFA concerning the foreign policy interests of the Czech Republic and compliance with the Czech Republic's international commitments, particularly commitments arising from declared international treaties by which the Czech Republic is bound, and from the Czech Republic's membership of international organisations and from MoI concerning public order and security.
- The option has now been introduced to suspend the drawing of permits for the export, import and transport of firearms weapons and ammunition.

In 2013 the Licence Administration organised informative seminars and workshops on this topic.

In 2013 a total of 1 142 permits for the export of firearms, their parts, main components and ammunition were issued; 3 applications were rejected.

In 2013 the total value of exports amounted to 2 264 936 th. CZK.

Revolvers and pistols: 56 752 items worth 428 163 th. CZK

Exports were made to a total of 66 countries. **Principal exports:**

1. USA	32 305 items	228 163 480 CZK
2. South Africa	3 002 items	18 318 446 CZK
3. Pakistan	910 items	30 017 848 CZK
4. Paraguay	2 319 items	11 742 979 CZK
5. Canada	2 155 items	21 242 181 CZK

Long weapons: 65 793 items, 481 163 th. CZK

Exports were made to a total of 62 countries. **Principal exports:**

1. USA	25 028 items	159 045 675 CZK
2. Russian Federation	9 818 items	72 517 006 CZK
3. Thailand	8 543 items	54 679 278 CZK
4. Canada	6 052 items	51 235 499 CZK
5. Australia	3 859 items	25 703 863 CZK

Ammunition: 565 955 182 items, 989 130 078 CZK

Exports were made to a total of 66 countries.

1.3 Import of pyrotechnic products manufactured outside the EU

The legal framework governing the control of imported pyrotechnic products as regards their technical parameters and compliance with Community security regulations is, as of 1 August 2011, defined by Government Regulation No. 178/2011 Coll., defining certain pyrotechnic products, the conditions under which they may be imported, and the specimen permit application ("Regulation"). This regulation is the implementing regulation to Act No.228/2005 Coll., introducing a permit system for the import of pyrotechnics manufactured outside the Community.

The Regulation obliges importers of pyrotechnic products manufactured outside the EU, when introducing selected pyrotechnic products into free circulation in the customs territory of the Czech Republic, to present an import permit, which is granted by the MIT Licence Administration in administrative proceedings. This import permit is issued on the basis of a certificate issued in accordance with Act No.156/2000 Coll., on the verification of firearms, ammunition and

pyrotechnics, and amending certain Acts, as amended, or a certificate issued by a notified body in another EU member state pursuant to Directive of the European Parliament and of the Council No. 2007/23/EC on the marketing of pyrotechnic products. Another prerequisite is proof of an import contract and the provision of information concerning the end user of the pyrotechnic products.

The customs authority thus has access to an import permit identifying the products and the quantity and price of the products, and during the permit proceedings it is proven that the imported pyrotechnics comply with the requisite EU standards.

In 2013 a total of 67 permits were issued for the import of pyrotechnic products (65 from China, 1 from Japan and 1 from Switzerland) with a declared import value of 321 587 th. CZK.

1.4 Export of dual-use goods and technology

Dual-use goods and technology constitute a wide range of products in the industrial, nuclear, chemical and biological fields. Although they are primarily produced and intended for civilian use, due to their nature and properties, they may also be used for military purposes, particularly for the manufacture of weapons of mass destruction (“WMD”) and their means of delivery or for the manufacture of conventional weapons. The system used to control exports in this area, as an important aspect of the comprehensive WMD non-proliferation strategy, is a mechanism designed to prevent the manufacture and accumulation of conventional weapons in high-risk regions and the proliferation of WMD and their means of delivery. An effective joint system for the control of exports of dual-use goods and technology is essential to assure compliance with the international commitments and obligations of member states that form part of international control regimes (see elsewhere in this Report) and the EU concerning the non-proliferation of WMD.

In June 2003, at the level of heads of state and government, EU member states adopted an Action Plan for the non-proliferation of weapons of mass destruction and in December 2003 the European Council adopted the EU Strategy against Proliferation of Weapons of Mass Destruction. This specifically states that the policy and procedures for the control of exports of dual-use goods must be reinforced.

In April 2004 the UN Security Council adopted Resolution No. 1 540, obliging all states to adopt and enhance effective measures to introduce domestic controls to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery, and to introduce the appropriate controls of related materials, for the purpose of which they were to introduce controls on transit and brokering, amongst others. Therefore, at the end of 2006 the European Commission issued Communication on the review of export control regimes of dual-use goods and technology and also submitted a draft of the reworked Council Regulation. The primary reasons were to increase the

effectiveness of controls to ensure greater security, provide a better regulatory environment for the manufacturing industry and to achieve greater consistency in the application of the Regulation by member states by adopting general principles or best practices for its implementation.

The regime used for controlling exports of dual-use goods and technology is implemented within the EU common trade policy in accordance with Council Regulation (EC) No. **428/2009, which introduces a Community regime for controlling the export, transport, brokering and transit of dual-use goods**, which is fully binding and directly applicable in all EU member states (this Regulation replaced the previous Council Regulation (EC) No. 1334/2000, effective from 2000). The Annex to the Regulation defines a list of dual-use goods, summarising the goods on the lists agreed in the various international control regimes, i.e. the Wassenaar Arrangement (WA), the Australia Group (AG), the Nuclear Suppliers Group (NSG) and the Missile Technology Control Regime (MTCR). The list of controlled goods is updated every year in compliance with the appropriate commitments and obligations adopted by each member state as a member of international regimes for the non-proliferation of WMD and agreements on export controls or the ratification of the appropriate international treaties.

Adopted at the national level to assure the implementation of the regime used for controlling exports was **Act No. 594/2004 Coll., implementing a Community regime for the control of the export, transport, brokering and transit of dual-use goods**, which was amended by Act No. 343/2010 Coll., effective as of 7 December 2010. This Act particularly treats the control of exports of dual-use goods, as well as the rights and responsibilities of persons transporting such goods from the territory of the Czech Republic to the territory of another member state of the European Union and persons importing such goods to the Czech Republic, and now also control of the provision of brokering services related to dual-use goods and transit.

The Act also implements measures adopted by Council the Joint Action No. 2000/401/SZBP dated 22 June 2000, on the control of technical assistance relating to certain military end-uses.

Licence proceedings are required particularly for the export of goods listed as controlled goods (Annex I of Council Regulation No. 428/2009) and which may only be exported from Community territory with an export permit. A permit is also granted for the provision of intermediary services and the provision of technical assistance.

The individual permits are then issued by the appropriate licensing authorities of each member country in which the exporter of the goods, broker or technical assistance provider is based. There is a prescribed form for export permits and these may be submitted to the customs authority in a different European Union country to that in which the permit was issued. In cases where goods are situated in a different member state to that in which the export permit was applied for, a

consultation procedure is required between the appropriate authorities of both member countries.

At the end of 2011 European Parliament and Council Regulation (EU) No. 1232/2011 added 5 new EU General Export Regulations to Annex II of Council Regulation No. 428/2009, on the basis of which certain goods may be exported to certain destinations, under the conditions specified in the individual permits. Exporters can now use 6 EU General Export Regulations: No. EU001 – Exports to Australia, Canada, Japan, Norway, New Zealand, Switzerland, including Liechtenstein, to the United States of America, No. EU002 – Permit for the export of certain dual-use goods to certain destinations, No. EU003 – Export after repair/replacement, No. EU004 – Temporary export for exhibition or fair, No. EU005 – Telecommunications, and No. EU006 – Chemical substances. In order to make use of EU general export regulations, exporters must register with MIT.

A permit for the export of dual-use goods not listed in Annex I of Council Regulation No. 428/2009 is required if the exporter has been informed that the goods in question are or may be entirely or partially intended for use in connection with the development of chemical, biological or nuclear weapons or other nuclear explosive devices, their production, handling, operation, maintenance, storage, detection, identification or expansion or with the development, production, maintenance or storage of missiles capable of delivering such weapons. A permit is also required if the purchasing country or destination country is subject to a weapons embargo and the exporter has been informed that the goods in question are or may be entirely or partially intended for military end-use or that the goods in question are or may be entirely or partially intended for use as parts or components of the goods listed on the national list of military material and exported without a permit or in violation of a permit.

Since 2005 MIT has informed known exporters of goods classified according to the Czech Integrated Tariff under subheadings 8456–8466 (these are various types of machine tools, inc. accessories) that regardless of whether or not they meet the technical requirements specified in the list of controlled items, they may only be exported to Iran and Syria on the basis of an individual export permit granted by the MIT Licence Administration. Due to international sanctions applied against North Korea, a permit is required for the export of a wide range of products into this territory. This information has been passed on to 232 exporters and others are informed of this duty on the basis of information acquired particularly from GCD.

The MIT Licence Administration is the authority in charge of the issue of export permits. The institutions that cooperate in assessing individual export permit applications are MoFA, MoD, Mol and the intelligence services, which issue their opinions from the viewpoint of their scope of competence, GCD, which is the control authority designated by law, and also SONS, as the

executive and regulatory authority for nuclear, chemical or biological items.

One of the key elements of the system used to control exports of dual-use goods and technology is cooperation with the business sector. Exporters and particularly manufacturers, together with state authorities, share responsibility for the effectiveness of the control system. Information about the application of the system of export controls is shared particularly through consultation when applicants contact MIT as part of the application process. Exporters can obtain comprehensive and up-to-date information on the MIT website or at seminars organised by MIT.

In 2013 MIT issued a total of 374 decisions relating to dual-use goods and technology, of which:

- 344 were permits for export to 59 countries to the total value of 7092 130 th. CZK,
- 15 concerning the non-granting of export permits,
- 15 administrative proceedings were suspended pursuant to the provisions of § 66 Para. 1 a) to c) of Act No. 500/2004 Coll., Rules of Administrative Procedure, as amended.

In addition, in 29 cases MIT issued statements concerning applications filed by exporters regarding the possibility of a permit being issued or to assess the need to apply for a permit.

In 2013 the most important countries to which dual-use items were exported were the Russian Federation (88x), China (34x), Iran (10x), India (28x), Turkey (23x), USA (9x), Belarus (16x), Saudi Arabia (10), Israel (12x) and the United Arab Emirates (8x).

The most commonly exported items in 2013 were:

- engineering products (machine tools including spare parts, a Nanospider inc. accessories, an Exponix portable explosives detector, a ZDZ model engine),
- from the chemical industry particularly sodium cyanide and potassium, Krasol (liquid polybutadiene with terminal -OH groups) and hydrofluoric acid, carbon and aramid fibres,
- scanning electron microscopes,
- chemical warfare agent detection tubes, detection papers,
- protective gas masks and filters.

In 2013 a further 19 exporters were registered to use General Export Permits EU001, EU002, EU003 and EU004, and a total of 90 firms may thus export goods on the basis of general export permits.

1.5 Overview of government budgetary revenue from MIT Licence Administration administrative operations

The following table gives an overview of government budgetary revenue from MIT Licence Administration administrative operations for the period from 1 January to 31 December 2013 together with operations through which those revenues were generated.

Administrative act	Number of administrative acts performed	Revenues from administrative acts (in CZK)
Permit for trade in military material (fee to account – 20 000 CZK)	59	1 180 000
Licence – military material (fee – duty stamp 1 000 CZK)	1 404	1 404 000
Permit – civilian weapons and ammunition (fee – duty stamp 500 CZK)	1 485	724 500
Permit – pyrotechnics (fee – duty stamp 500 CZK)	67	32 500
Permit – international control regimes (fee – duty stamp 500 CZK)	353	176 500
Permit – trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (fee – duty stamp 500 CZK)	12	6 000
Fine for administrative offence (to account)	3	18 000
Copies of pages from administrative files		465

Total revenues		3 541 965
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Note:

The issue of licences for exports and imports of military material, civilian weapons and ammunition for the purposes of exhibition, demonstration, claims and for the free export and import of samples and import of pyrotechnic products for the purpose of exhibition, demonstration, and the free import of samples is exempt from the fee.

1.6 Role and status of state authorities and other parts of the control system

1.6.1 Ministry of Foreign Affairs (MoFA)

The role and status of the Ministry in controlling exports of military material stem from the law on foreign trade in military material, which defines the opinion of the Ministry as binding. By law MoFA is obliged to assure that licences and subsequent exports of military material are not in contravention of the foreign policy interests of the Czech Republic, particularly commitments arising from declared international treaties and membership of the Czech Republic in international organisations.

In the case of weapons exports, foreign policy interests involve a series of security-political, human rights, humanitarian and other aspects. Policy in this area is based on a comprehensive assessment of exports by the entire apparatus of the Ministry, including the active involvement of embassies, consultation with partners in the EU and other international players. The basic prerequisite is that exports are in compliance with the international control regimes and the laws of the importing country. Another aspect is to minimise the risk that exports will be made in a manner other than as declared and guaranteed in the documentation. These risks associated with possible criminal activity and the potential further distribution of the exported material (intentionally or unintentionally) to users other than those specified in the end use papers, are also assessed by other government authorities involved in the licensing proceedings.

During the assessment process, which always involves several departments of the Ministry, MoFA comprehensively assesses each case of export of military material to end use countries outside the EU, the situation in the end use country, the end user and foreign partner, and also the declared end

use of the goods. Account is also taken of other circumstances and the impact the export could have in deteriorating the human rights situation in the recipient's country, as well as the internal security situation in the country, and of potential disturbance of the regional balance and overall situation in the region. Points which clearly express the fundamental aspects are the eight criteria of Council Common Position 2008/944/SZBP, which is covered in the next section of this Report. MoFA always assesses applications for an export licence depending on the actual country in which the military material is to be eventually used, even when goods are exported through another state, e.g. an EU member state.

These criteria and the verification of documentation are assessed in close cooperation between the MoFA head office in Prague and the embassies operating in the declared user's country. In certain cases this process is very time-consuming, particularly if the Czech Republic has no representation in the country in the form of a resident embassy. In these cases MoFA is forced under the law to request a twenty-day extension of the deadline. Also, more and work efforts are being made to develop a system of mutual formal and informal consultation with other EU member states. Through preventive dialogue and communication with exporters MoFA strives to prevent the filing of export licence applications which would clearly be impassable for the Ministry. This not only reduces the administrative burden on the state apparatus, but also reduces the amount of money wasted by exporters. This also lessens the risk of potential judicial disputes. When formulating its concurring statements concerning export licence applications, MoFA works with embassies to set up post-licence control conditions to reduce the risk of a potential breach of the criteria of Council Common Position 2008/944/SZBP and also puts pressure on end users to conduct their affairs in a more transparent and responsible manner when handling imported military material.

In previous years, the system of preventive dialogue and communication with exporters, as well as exporters' chance of filing preliminary queries through formal channels, greatly reduced the number of rejected applications for licences to export military material due to a conflict with the foreign policy interests of the Czech Republic. Through contact with exporters and representatives of interest groups, MoFA openly declares its position on individual potential export territories and provides information about the existence of weapons embargos and other restrictive measures also from the Ministry's viewpoint concerning exports of the various categories of military material. Exporters thus usually have adequate information to enable them to consider whether it is worth their filing an application for an export licence.

In the two-tier system used to control exports of military material, in compliance with the Czech legislation, MoFA also comments on applications for permits to trade in military material. From the viewpoint of foreign policy, in 2013 MoFA did not issue a negative statement on any permit applications due to the unacceptability of the entity applying for the permit.

Territorial focus is also an integral part of the assessment of trade permit applications. In 2013 MoFA refused to grant a permit to trade in military material, or limited the territorial validity of a trade permit to exclude those territories subject to a weapons embargo by the international community, as well as those countries whose policy poses a threat to international or regional security or the foreign policy interests of the Czech Republic, or its allies.¹ Owing to the existence of restrictive measures and foreign policy interests, in 2013 the Ministry refused to grant a permit to trade in military material for Syria, Iran, Somalia, Sudan, Belarus, Cuba, North Korea, Eritrea and Zimbabwe.

Thanks to intensive communication with the business sector, MoFA seeks to more clearly define the intersection of the foreign policy interests of the Czech Republic and the interests of the state and private sector as regards the development of export relations. MoFA is aware that in the Czech Republic the security and defence industry is a traditional branch of industry which has export potential, offers products with high added value and, in certain cases, is also a major regional employer.

In 2013 Czech Government Resolution No. 631 dated 14 August 2013 approved the Strategy for Relations between the State and Defence and Security Industry of the Czech Republic. The Strategy was prepared from 2012 by the ad hoc interdepartmental working party set up for the purpose with the aim of creating a systematic framework for relations between the defence sector and the security industry and state institutions in changing security, legal and economic conditions. By adopting this Strategy, the state administration was responding to demand from the Defence and Security Industry Association of the Czech Republic and the business sector as well as to the need for a broader interdepartmental approach to a number of topics associated with this issue.

In October 2013, in compliance with Government Resolution No. 613, the Committee for the Foreign Security Policy Coordination of the Czech Republic set up a permanent Expert Working Group for the Defence and Security Industry. The purpose of the interdepartmental working group is to implement the conclusions of the Strategy and the group should also become the necessary forum for expert discussion between the representatives of the various ministries concerned with issues affecting the defence and security industry, and between state administration and the business sector. The inaugural session of the Expert Working Group for the Defence and Security Industry was held in October 2013 and approval was granted for its Activity Plan for 2013 and 2014, defining 4 priority areas. In November 2013 the first regular meeting of the Expert Working Group was held on the topic of support for defence and security research and development. The work of this group will continue at the next meeting in 2014.

As part of its cooperation in controlling exports of dual-use goods, MoFA adopts a stance based on

¹ This issue is also covered by Section 5 – International weapons embargos.

the nation's foreign policy interests and also on applications for export permit for those goods.

1.6.2 Ministry of the Interior

The law obliges MoI to issue binding statements for MIT concerning all applications for permits and licences for foreign trade in military material, from the viewpoint of public order, safety and protection of the population.

When issuing its binding statements, MoI collaborates closely with the intelligence services and the Police of the Czech Republic, from which it obtains information important for reviewing applications. It then analyses them, evaluates their relevancy and only then does it draw up its binding statement for MIT. To ensure that all applicants are treated equally, MoI has issued an internal regulation, specifying the procedure used when issuing opinions and when providing information to MIT. If necessary, obviously the information is discussed and assessed by MoI staff together with the entity that provided the information. Only then does MoI draw up a binding statement, which must be duly justified, particularly in the case of negative decisions. MoI draws up all its binding statements as soon as it has received the source materials from the intelligence services and the Police of the Czech Republic, by the deadlines specified by the law.

The role and status of MoI in controlling exports of dual-use goods are defined by Act No. 594/2004 Coll., implementing the European Community regime for the control of exports of dual-use goods and technology, as amended. This Act obliges MoI to issue a statement to MIT by the designated deadline concerning all applications for export permits from the viewpoint of the security interests of the Czech Republic. In this, as with foreign trade in military material, it collaborates with the Security Information Service and the Police Presidium of the Czech Republic.

In 2013 the Police of the Czech Republic issued 1 235 weapons waybills for permanent arms exports, on the basis of which 1 category A weapon, 1 101 category B weapons and 348 category C weapons were exported. It also issued 817 weapons waybills for permanent arms imports, on the basis of which 2 category A weapons, 557 B weapons and 979 category C weapons were imported.

In relation to the amendment of Act No. 228/2005 Coll., on control of trade in products whose possession is regulated in the Czech Republic for security reasons, and on the amendment to some other acts, as amended, MoI now provides MIT with a binding statement concerning applications for permits for the export of weapons and ammunition not classed as military material. In this it also collaborates with the intelligence services and the Police Presidium of the Czech Republic.

1.6.3 Ministry of Defence

As part of proceedings concerning applications for permits to engage in foreign trade in military material, the Ministry of Defence (“MoD”) also provides MIT with binding statements in order to assure the defence of the Czech Republic. In 2013 it received a total of 83 applications from 75 applicants. Consent was issued in all cases.

MoD also issues binding statements concerning applications for certificates and applications for licences for holders of a permit to engage in foreign trade in military material in order to assure the defence of the Czech Republic.

An MoD statement is required in the case of important military material as defined by the law on foreign trade in military material.

In 2013 MoD received a total of 106 applications filed by 261 entities. Of these, 18 applications were to extend a previously issued licence, 10 applications were for a statement on the import of important military material, 9 applications were for a statement on the import of a service relating to important military material (maintenance, repairs), 6 applications were for a statement on the issue of a global licence, 32 applications were for a transfer licence and 31 applications were for a licence for the export of important military material.

In commodity terms these were small arms, large calibre weapons and munitions, rocketry, tanks and armoured vehicles, military vehicles, rocketry, aviation technology and engineering equipment, cryptographic equipment and services relating to the export of important military material (warranty and general repairs).

Of these, consent was granted in 100 cases and in 2 cases MoD refused to grant consent to the transaction.

From the territorial point of view, these countries were as follows: Algeria, England, Argentina, Australia, Bahrain, Bulgaria, Egypt, Ethiopia, France, Iraq, Israel, Yemen, Cambodia, Canada, Lithuania, Luxembourg, Hungary, Germany, Nigeria, Netherlands, Norway, Pakistan, Poland, Russia, Saudi Arabia, Slovakia, Serbia, Switzerland, Thailand, Tunisia, Uganda, Ukraine, Uruguay, USA, Great Britain, Vietnam.

An MoD statement on global licences was issued to 6 applicants for the territories of Italy, Lithuania, Hungary, Poland, Greece, Slovakia and Great Britain.

The procedure used for the issue of statements concerning foreign trade in military material is defined by an internal MoD regulation and is commented upon by the responsible departments of the ministry. Besides the defence the Czech Republic, the partial statements from these departments also take account of the international commitments arising from the Czech Republic’s membership

of NATO, EU, UN and OSCE, the criteria listed in Council Common Position EU 2008/944/SZBP, which defines joint rules for the control of exports of military technologies and military material, and, last but not least, commitments arising from the need to comply with the provisions of the Treaty on Conventional Armed Forces in Europe (published under No. 94/2004 of the Collection of International Treaties) and the Vienna Document.

1.6.4 Ministry of Finance – General Customs Directorate

Customs authorities check that trade in military material is performed only by persons with a licence pursuant to Act No. 38/1994 Coll., and that such trade is within the scope and under the conditions specified by the licences. The Customs Administration of the Czech Republic also checks exports of dual-use goods in accordance with Act No. 594/2004 Coll. In 2013 there were exports of 3 999 dual-use goods stated in customs declarations, for which MIT – Licence Administration had issued an individual export permit or for which a general export permit or export permit issued by the appropriate authority in another EU member state was used.

For the period 1 January 2013 to 31 December 2013 the GCD database lists the following numbers of exports and goods relating to military material:

List number		Number
8710	Tanks and other armoured combat vehicles, motorised, including those fitted with weapons, and parts of such vehicles	119
8801	Balloons and airships, gliders, hang gliders and other non-powered aircraft (airplanes)	33
8802	Other aircraft (e.g. helicopters, airplanes), spaceships (including satellites) and suborbital and spacecraft launch vehicles	158
8803	Parts and components of products listed under 8801 or 8802	2 005
8804	Parachutes (including dirigible parachutes and paragliders) and rotating parachutes, and parts and accessories	692
8805	Aircraft launchers and similar appliances and equipment, instruments and equipment for landing deck-arrestors and similar appliances and equipment, ground training equipment and parts thereof	9
9301	Military weapons, other than revolvers, pistols and guns listed under 9307	92

9302	Revolvers and pistols other than those listed under 9303 or 9304	1 344
9303	Other firearms and similar devices which are operated using an explosive charge	556
9304	Other weapons (e.g. rifles, carbines and pen pistols ...) except cutting and stabbing weapons listed under 9307	191
9305	Parts, components and accessories of products listed under 9301 to 9304	776
9306	Bombs, grenades, torpedoes, mines, missiles and similar munitions of war and parts and components thereof, cartridges and other ammunition and parts and components thereof, including all types of shot and cartridge wads	748

Many items within the combined nomenclature are divided into sub-items for civilian and other purposes, into which goods not otherwise specified can generally be classed.

In 2013 the Customs Administration of the Czech Republic carried out 22 investigations due to suspicion of illegal trade in military material, weapons or explosives. In the case of military material these were mainly ballistic materials and spare parts for military vehicles, helicopters and airplanes. The Customs Administration of the Czech Republic also found that there were 5 breaches of Act No. 594/2004 Coll. in 2013.

1.6.5 State Office for Nuclear Safety

SONS, as a central government body, handles tasks arising from the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), the Convention on the Prohibition of Chemical Weapons (CWC) and the Biological Weapons Convention (BTWC). SONS, as the executive and regulatory authority for items of a nuclear, chemical or biological nature, within the scope of its authority and in compliance with Acts No. 18/1997 Coll., on the peaceful use of nuclear energy and ionizing radiation (Atomic Act) and amending and supplementing certain acts, as amended, No. 19/1997 Coll., on Some Measures Concerning Chemical Weapons Prohibition, as amended, and No. 281/2002 Coll., on Some Measures Related to Prohibition of Bacteriological (Biological) and Toxin Weapons and on Amendments to the Trades Licensing Act, as amended, exercises state supervision over chemical, biological and radioactive substances and nuclear materials, and checks compliance the duties relating to the handling of such.

As regards items controlled by SONS, the military material category includes only List 1 chemicals as defined by the Convention on the Prohibition of Chemical Weapons (highly dangerous substances under Act No. 19/1997 Coll.). In 2013 none of these chemical substances were exported from the Czech Republic.

In 2013, in connection with the control of exports of other chemical substances monitored by the Convention on the Prohibition of Chemical Weapons, the Czech Republic exported substances on list 2 and list 3 of this Convention (hazardous substances, or less hazardous substances in accordance with Act No. 19/1997 Coll.). Chemical substances on list 3 were exported particularly to countries of the European Union (Slovakia, Hungary, Bulgaria, Romania, Latvia, Lithuania, France and Germany). Chemical substances on list 3 were exported outside the European Union, to Serbia.

Monitoring exports of chemical substances listed by the Convention on the Prohibition of Chemical Weapons to countries of the European Union is essential in order to assure that these data are declared to the Technical Secretariat of the Organisation for the Prohibition of Chemical Weapons.

As part of controls of exports and imports of nuclear items, in 2013 SONS issued a total of 358 decisions concerning permits for import/export of nuclear materials, selected items and dual use items in the nuclear field pursuant to § 9 Para. 1 k) of Act No. 18/1997 Coll. These included 7/11 permits for the import/export of nuclear materials, 13/4 permits for the import/export of selected items, and 26/265 permits for the import/export of dual use items in the nuclear field. 3 permits were issued for the export and re-import of nuclear materials, 2 permits were issued for the import and re-export of nuclear materials and 10 permits were issued for the export and re-import of dual use items in the nuclear field. One permit was issued for the import and re-export of selected items. In 16 cases SONS issued a change to the conditions governing decisions concerning the import/export of nuclear items. In 2013 no decisions were issued to deny permits for activities defined by § 9 Para. 1 k) of Act No. 18/1997 Coll.

In the field of biology, in 2013 the Faculty of Science of Masaryk University in Brno reported exports of freeze-dried cultures of *Legionella pneumophila* to Spain (recipient ETYCA Research, Barcelona) and to Slovakia (recipient EL spol. s r.o., Spišská Nová Ves). Baxter BioScience s.r.o. exported a poultry influenza virus, specifically a wild strain of A/H5N1/Indonesia/05/2005 for the production of vaccines, to Austria (recipient Baxter Vaccine AG). The State Health Department reported the export of 5 strains of Type 1 *Shigella dysenteriae* to France, intended for the Institut Pasteur, the French National Reference Centre for *Escherichia coli*, *Shigella*, and *Salmonella*. There were also exports of veterinary vaccine compositions against rabies, Newcastle Disease in poultry, classical swine fever virus and rinderpest, produced by Bioveta, a.s. These exports were to EU countries (Bulgaria, Croatia, Lithuania, Latvia, Hungary, Germany, Poland, Romania, Greece, Slovakia), and also outside the EU (Bangladesh, Bosnia and Herzegovina, Montenegro, Egypt, Philippines, Iraq, Jordan, Kazakhstan, Kosovo, Moldova, Mozambique, Pakistan).

In the framework of the professional aptitude test in the diagnosis of disease, samples of rabies virus were imported to the territory of the Czech Republic from France (recipient State Veterinary Institute Prague). For the purposes of research into physiological effects tetrodotoxin was imported

into the Czech Republic (recipient Institute of Physiology of the Academy of Sciences of the Czech Republic). Aflatoxins, Trichothecene toxins and Staphylococcus aureus toxins were imported into the Czech Republic in the form of standards, test samples and diagnostic kits. These were imports from Poland, Austria and Slovakia.

1.6.6 Cooperation of control authorities and the public in export control

The effective control of foreign trade in military material requires cooperation and coordination between all the relevant state authorities – MIT, MoFA, Mol, MoD and the intelligence services.

One aim of striving to assure the greatest possible transparency in the export control system is to inform the public (particularly the media and staff of non-governmental organisations on the one hand and representatives of manufacturers and traders in military material on the other) about the control principles and procedures resulting from the gradual process of adapting the national system to meet the standards used in developed countries of the European Union. Annual reports available to the public in both Czech and English are published for this purpose.

To increase the transparency of the licensing process, in 2013 MIT and MoFA was in constant contact with non-profit organisations involved in monitoring and controlling trade in military material. These ministries thus strive to assure the greatest possible transparency for the professional and lay public. In 2013 representatives of these ministries also attended expert discussions on the topic of exports of military material, which were held in the Chamber of Deputies and Senate of the Parliament of the Czech Republic.

In 2013 MoFA continued to participate in EU activities concerning the control of exports of conventional weapons in third countries. In relation to the adoption of Council Decision 2012/711/SZBP, several study trips, regional seminars and individual assistance events were held in 2013 to assist third countries striving to harmonise their own military material export control systems with the systems of EU member states, based on the full implementation of Council Common Position 2008/944/SZBP. As EU experts, MoFA representatives have attended regional seminars for states of the Western Balkans (Lisbon), South Caucasus and Eastern Europe (Stockholm) and North Africa (Tunisia) or individual assistance in the creation of a legislative framework for controlling exports of military material in Montenegro and Serbia.

2 European Union and international cooperation in the control of conventional weapons

2.1 European Union

European Union and international cooperation in the control of conventional weapons

As a part of the European Union, the Czech Republic, like all member states, has long respected the basic principles of the EU Common Foreign Policy and Security Policy, which as regards exports controls also includes taking a responsible approach to exports of military material and the desire to limit and eliminate the risk of the uncontrolled proliferation of weapons. The Czech legislation regulating the arms trade and military material has been amended in the past to bring it into line with the relevant EU legal framework, particularly the requirements arising from Council Common Position 2008/944/SZBP and Directive of the European Parliament and of the Council No. 2009/43/EC simplifying the terms and conditions for transfers of defence-related products within the Community.

2.1.1 Council Common Position 2008/944/SZBP

In 2008 the Council of Foreign Ministers of EU Member States adopted Common Position 2008/944/SZBP, establishing common rules governing the control of exports of military technologies and military material. Article 2 of this document contains eight criteria, according to which member states assess each export of weapons. These are the criteria adopted in 1998 by EU countries as a politically binding EU Code of Conduct on Arms Exports². Several articles of Council Common Position 2008/944/SZBP also contain reformulated Operative Provisions, which also formed part of the EU Code of Conduct.

The EU sees the adoption of eight common criteria that states consider when deciding on applications for export licences, in the form of a legally binding Common Position, as a signal to partners and the European public, which proves the importance of controlling weapons exports as part of the European agenda.

Unlike the instruments of the first pillar of the EU (Treaty Establishing the European Community), the Common Position is not directly applicable in the jurisdictions of member states, nor does it come under the jurisdiction of the European Court of Justice; however, under Art. 15 of the Treaty on the European Union “Member states ensure that their national policies are in compliance with the Common Positions”. Therefore, in 2009 some member states, including the Czech Republic, took account of the implementation of the principles of Common Position 2008/944/SZBP³ when amending their national legislation.

² *EU Code of Conduct on Arms Exports*. The usual Czech translation is not literal, as the Code covers not only weapons, but the entire area of military material.

³ A number of Member States (e.g. Germany) had already introduced a Code of Conduct in their legislation.

The basic framework of Council Common Position 2008/944/SZBP comprises eight reference criteria relating to protected values that may be put at risk if military material is exported under certain circumstances. The provisions of the Common Position oblige EU member states to assess all exports of military material on the basis of those reference criteria. Those criteria are as follows:

1. international commitments of EU member states (UN SC, EU/EC, OSCE sanctions, non-proliferation agreements, etc.);
2. respect for human rights in the destination country (Common Position 2008/944/SZBP now also stipulates respect for international humanitarian law);
3. the internal situation in the destination country;
4. the preservation of regional peace, security and stability;
5. the national security of member states and territories for which member states are responsible, and the security of friendly and allied countries;
6. the purchasing country's conduct towards the international community, particularly its links to terrorism;
7. the existence of the risk that the material will be supplied to a user other than the declared user in the destination country, or re-exported under adverse conditions;
8. the compatibility of exports with the technical and economic capacity of the recipient country.

These criteria, their full text and comments and recommendations concerning interpretation contained in the User's Guide provide a relatively detailed description of the approach taken to the policy for conventional weapons. Each licence application is also assessed according to these criteria in the Czech Republic⁴.

Council Common Position 2008/944/SZBP also obliges EU member states to inform other member states about their decisions if a licence is not granted (is denied) for the export of military material to third countries. EU member states notify all other member states of this information in the prescribed manner. Information about denial is shared under a dedicated regime, due to its potential for misuse for commercial advantage.

The database of denied licences is regularly updated by the Council Secretariat and when assessing each licence in this database the control authorities of EU states check whether a similar case has already been deemed by another country as violating the criteria of Council Common Position

⁴ In some cases, such as criteria 3 of Art 7, the territorial delimitation of the individual criteria tends to be problematic. MoI monitors the permeability of borders and border problem areas in individual countries; the logical unit to which the delimitation relates is usually the state.

2008/944/SZBP. If the database contains information about a denial “in a fundamentally identical transaction⁵” by any member state, the state which is assessing the licence application is obliged to consult the country which originally denied the similar transaction. If this consultation proves that the case is “fundamentally identical”, the licence application is denied. The member state will notify other member states about the eventual granting of the licence, despite the confirmation resulting from the consultation (undercut), together with a detailed explanation of its reasons for granting the licence.

An important document resulting from sessions of the COARM group is the User’s Guide to Common Position 2008/944/SZBP. Since it was first published in 2003, this text has been continually updated and supplemented. In the first half of 2008 – under the Slovenian presidency – a brief analysis of the end-user’s technical ability to work with the supplied equipment was added to the User’s Guide (pages 70–71 of the English text, the part interpreting the fifth criterion).

The User’s Guide specifies communication between member states, refers to best practices in licensing, explains in more detail the above Common Position criteria and defines the manner in which member states contribute to the EU Annual Report created on the basis of Article 8 of the Common Position.

The most difficult task in drawing up the User’s Guide is to find a compromise between definitions covering all possible aspects of the criteria and the need to practically apply this detailed development in each and every case. The approach taken by member states varies; some advocate comprehensive definitions, while others prefer more concise versions. The Czech Republic does not shy away from more complicated and complex formulations, but understands the complications resulting from the additional aspects assessed.

2.1.2 User’s Guide to the EU Code of Conduct

An important document resulting from sessions of the COARM group is the User’s Guide to Common Position 2008/944/SZBP. Since it was first published in 2003, this text has been continually updated and supplemented. In 2008 a brief analysis of the end-user’s technical ability to work with the supplied equipment was added to the User’s Guide (pages 70–71 of the English text, the part interpreting the fifth criterion).

The User’s Guide specifies communication between member states, refers to best practices in licensing, explains in more detail criteria 1 (international commitments of EU member states), 2 (respecting human rights in the destination country), 3 (internal situation in the country as the result of tension or armed conflict), 4 (preserving regional peace, security and stability), 5 (national

⁵ “Fundamentally identical transaction” generally means a transaction involving the same end user and similar material.

security of member states and territories for which member states are responsible in their foreign relations, and the security of friendly and allied countries), 6 (the purchasing country's conduct towards the international community, particularly its links to terrorism), 7 (the risk that the material will be supplied to a user other than the declared user in the destination country, or re-exported under adverse conditions) and 8 (8. the compatibility of exports with the technical and economic capacity of the recipient country) of Common Position 2008/944/SZBP and defines the manner in which member states contribute to the EU Annual Report created on the basis of Article 8 of Common Position 2008/944/SZBP.

The most difficult task in drawing up the User's Guide is to find a compromise between definitions covering all possible aspects of the criteria and the need to practically apply this detailed development in each and every case. The approach taken by member states varies; some advocate comprehensive definitions, while others prefer more concise versions. The Czech Republic does not shy away from more complicated and complex formulations, but understands the complications resulting from the additional aspects assessed.

2.1.3 Activities aimed at enhancing the control mechanisms of other countries

Many EU member states, as well as other countries with developed export control systems, use various means of supporting the control mechanisms of other countries. These activities are bilateral or take place as part of international organisations. In 2013 the EU, in collaboration with the Federal Office of Economics and Export Control (BAFA) and the various EU member states, on the basis of Council Decision 2012/711/SZBP, held several study trips, regional seminars and individual assistance events to provide assistance to third countries striving to harmonise their own military material export control systems with the systems used by EU member states based on the full implementation of Council Common Position 2008/944/SZBP. The recipients of this assistance were the states of the Western Balkans, Eastern Europe, Southern Caucasus and North Africa. Political dialogue with other countries has also taken place at the EU level concerning exports of weapons and military material.

2.1.4 Position of the Czech Republic within the EU

The Czech Republic is actively involved in the system of EU common standards for the control of foreign trade in conventional weaponry. In compliance with the rules contained in Council Common Position 2008/944/SZBP, the Czech Republic consults denials issued by the various EU member states. In addition to this, informal consultation also takes place with partner states within the EU as part of COARM sessions, as well as via telephone and e-mail.

Despite the sharing of relatively detailed information about licensing mechanisms and their practical

application, which is characterised by the current cooperation within the COARM group, in some aspects the export policies of the various member states continue to differ, and opinions concerning EU policy also vary in different parts of the world. This is all the result of historical relations, traditional approaches, as well as business opportunities and relations emerging in the modern day.

In comparison with other member states, the Czech Republic also has its own specifics. A comparison of Czech exports with the exports of other countries who contributed towards the fourteenth EU Annual Report for 2012⁶ shows that there are destinations (outside the territory of EU member states and NATO), where in terms of the volume of exports, the Czech Republic is a major exporter of military material from EU countries⁷. These exports must be seen in the context of the aforementioned specifics of the various member states and reflect trade activities in the given year. They cannot be seen as reflecting tendencies in foreign trade in military material.

3. International cooperation

Considerable attention is also devoted to controlling trade and the general transfer of military material on a global scale. This area is at the forefront of international cooperation between countries and is a topic of discussion at the forums of an number of international organisations. The volume of the arms trade is increasing on a global scale. The biggest problem, however, is not legal exports to trusted state bodies, but weapons sold illegally to non-governmental paramilitary organisations, terrorist groups, etc. These help to destabilise the overall security situation in some regions, e.g. in Sub-Saharan Africa.

3.1 Arms Trade Treaty

The process of preparing the global Arms Trade Treaty (“ATT”) culminated in 2013. At its session held on 2 April 2013 the UN General Assembly adopted the ATT as part of the Final UN Conference on the Arms Trade Treaty, which was held from 18 to 28 March 2013 in New York. The UN Conference, intended to complete more than 6 years of talks concerning the ATT, did not manage to achieve the consensus adoption of the treaty text by all UN member states. Therefore, the ATT was adopted by a majority vote in the form of a UN General Assembly Resolution, a majority of 154 states against 3 (23 countries abstained and 13 countries did not participate in the vote). The ATT was opened for signature by the parties on 3 June 2013. The Czech Republic was one of 67 states that signed the ATT at the first opportunity.

⁶ European data on exports for 2013 are not available as of the preparation of this Report.

⁷ Information on exports from countries outside the EU not bound by Council Common Position 2008/944/SZBP is not contained in the European Report on Export Control.

The Czech Republic has always advocated a rigorous ATT, to assure an effective means of controlling the international arms trade. Delegations comprising MoFA and MIT representatives attended both the ATT negotiating conferences (July 2012 and March 2013) and in compliance with national priorities were actively involved in negotiating the text of the treaty. Negotiation of the ATT was also the subject of intensive coordination within the working group of the Council (EU) COARM working group.

The ATT is classed as a so-called presidential treaty, which requires the consent of the Parliament of the Czech Republic and ratification by the country's president, since it is an international agreement "governing the rights and obligations of persons", or "other matters whose rules are subject to the law" in accordance with Article 49 of Constitutional Act No. 1/1993 Coll., Constitution of the Czech Republic, as amended.

By adopting Government Resolution No. 408 dated 29 May 2013, the government approved the conclusion of the ATT, recommending that the country's president authorise the Minister of Foreign Affairs and as an alternate the permanent representative of the Czech Republic at the United Nations Organisation to sign the ATT. At the same time it instructed the Prime Minister to submit the ATT to the Chamber of Deputies and the Senate of the Parliament of the Czech Republic to express their consent to its ratification, and instructed the Minister of Industry and Trade to justify the negotiation of the ATT in the Parliament of the Czech Republic.

On 3 June 2013 the ATT was signed on behalf of the Czech Republic in the United Nations headquarters in New York by the Czech Republic Permanent Representative at the United Nations Organisation.

As the ATT also regulates areas that fall under the exclusive competence of the EU internal market, it is essential that before the Treaty can be ratified by EU member states, a Council Decision is adopted enabling EU member states to ratify the Treaty in the interests of the EU. Although the national coordinator and co-coordinator have stated that the process of ratifying the ATT should commence during autumn 2013, setbacks in the adoption of the EU Council Decision enabling member states to ratify the ATT have delayed the ratification process to 2014.

The ATT is expected to become effective during 2014, when the wording of the Treaty will be ratified by 50 states. Once the Treaty has entered into force, it will be implemented, in compliance with the Government Resolution dated 29 May 2013 and their duties under the law, by the Ministry of Industry and Trade, the Ministry of Foreign Affairs, the Ministry of Finance, the Ministry of the Interior and the Ministry of Defence.

The ATT is the first global instrument for controlling the international arms trade in military and other related material. Until the ATT is adopted, the arms trade is only regulated at the national

level, or by regional integration groups (EU, partly ECOWAS, for example). National control systems have not yet been harmonised and many states still have not developed systems for the control of the arms trade. In this respect the ATT is a breakthrough document, whose importance is not lessened even by the fact that there will still be a group of states which continue to reject any regulation of the arms trade in this manner.

The ATT obliges the parties to introduce a control system based on the Treaty framework into their legislation. This is the minimum standard allowing parties to the ATT to exercise stricter controls. On the basis of the ATT states will be obliged to control transactions involving 8 categories of conventional weapons (including small arms and light weapons). There is a separate control regime for munitions and weapon parts and components. The core of the ATT regulates weapons exports, while the signatory states pledge to prevent exports of weapons in situations where the export would constitute a gross violation of international commitments (including embargoes and sanctions), treaties and arrangements or would result in genocide, crimes against humanity and serious breaches of the Geneva Conventions. In addition, the signatory states will be obliged to assess the risks specified in the ATT (in relation to international security and peace, violations of international humanitarian law and human rights, terrorism, organised crime and other partial interests). Exports of weapons to a declared country of final use may only be authorised if an assessment at the national level deems that there are no such risks. On the basis of ATT states will be obliged to implement the appropriate measures aimed at preventing the risk of the diversion of weapons and controlled material to other than the declared end-user and take this risk into account when assessing individual export transactions. A major step forward in contrast to the current incoherent practice is a raft of obligations relating to keeping records on permits granted and transactions executed and also the duty to share certain designated information.

For the Czech Republic, as a country with an advanced system for controlling exports of conventional weapons, the ATT does not impose any new obligations outside the current legislative framework, even for individual exporters. For Czech entities, the adoption of the ATT will not result in any new obligations or restrictions relating to exports of military material to the EU and third countries. The implementation of ATT throughout the international community will partially even out the current inequality as regards the conditions stipulated for exporters from EU countries and exporters from third countries, which prior to the ATT did not subject weapons exports to the criteria contained in developed control systems. In this respect the ATT will benefit exporters from EU countries, including the Czech Republic.

Although the ATT is the result of a compromise reflecting the intersecting interests of the various players in the international community and is not an ideal document which fully reflects the position of the Czech Republic and other developed countries, from the viewpoint of the Czech Republic, the

adoption of this treaty will greatly help to strengthen international law, including international humanitarian law, respect for human rights and international security. The implementation of ATT will limit the adverse impact of the unregulated arms trade, as well as that of illegal trade and the misuse of weapons by terrorists and organised crime.

3.2 UN Action Programme to Prevent, Combat and Eradicate Illicit Trade in Small Arms and Light Weapons⁸ in All its Aspects

An important framework for UN activities relating to the control of small arms and light weapons (SALW) is the Action Programme to Prevent, Combat and Eradicate Illicit Trade in Small Arms and Light Weapons in All its Aspects (“UN Action Programme”). The UN Action Programme was approved in 2001. The first conference to assess the implementation of the international community’s objectives in this area was held in 2006; the second evaluation conference took place in 2012, and every two years the fulfilment of the designated objectives is reviewed and experience exchanged in the interests of strengthening implementation mechanisms. Every year the UN Secretary-General submits a Report on small arms to the UN General Assembly (together with a raft of recommendations for the UN Security Council) and the General Assembly traditionally adopts resolutions under the names “Illicit Trade in SALW in all aspects” and “Assistance to States in Curbing Illicit Trade with SALW and in the Collection of SALW”.

The priority of the UN Action Programme is to define specific commitments and mechanisms to improve controls of SALW which are to be commissioned. These measures can be broken down based on the level at which they are to be adopted, i.e. the national, regional and global level. At the *national* level this involves the adoption and implementation of legislation relating to control of the production, export and import of SALW, recording and monitoring the movement of SALW and the destruction of surplus SALW. Measures at the *regional* level are voluntary and focus on increasing transparency, although they may also include regionally binding moratoria on the production, import and export of SALW with the aim of preventing any undesirable accumulation in the region or area. At the *global level* this particularly involves cooperation in the suppression of illicit trade.

All these measures form part of the international community’s efforts to avoid conflicts in which SALW are abused, and to resolve such conflicts. This particularly involves demobilisation, demilitarisation, disarmament and consolidation projects targeting militants involved in the conflict. One key aspect is obviously the disposal of SALW in conflict-affected areas.

⁸ According to the UN working definition, small arms are weapons designed for personal use, usually operated by one person (e.g. machine guns, light machine guns), small arms are then operated by a group of people and transported using light equipment; these include lower calibre mortars or some types of portable cannons.

Compliance with the measures of the UN Action Programme also includes the “International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons” (abbreviated to International Tracing Instrument / ITI), which was adopted in 2005 as a politically binding document.

The European Union supports the UN Action Programme through cooperation projects on the basis of specific Council Decisions. One European Union measure relating to the illicit proliferation of SALW is the clause prohibiting the illicit accumulation and proliferation of small arms and light weapons. Since 8 December 2008, this clause has been a binding part of international treaties between the European Union and third countries. The Joint Action of the EU Council has also resolved the question of preventing the illegal transport of SALW by air (by plane).

As regards the implementation of the UN Action Programme, the Czech Republic is actively involved in the international community’s efforts to prevent the illicit trafficking and uncontrolled proliferation and accumulation of SALW. At the national level this particularly involves enhancing legislative standards relating to regulating the possession, carrying and registration of SALW; control of the production, export, import, transport and transfer of SALW to prevent crime, including legal sanctions; the marking of weapons upon manufacture and import; record-keeping; the disposal of surplus SALW. At the regional and global level, the Czech Republic has also participated in European Union initiatives, and also made a voluntary contribution to support the work of the United Nations Office for Disarmament Affairs (UNODA), which was used in 2009 to hold a UNODA seminar on the implementation of “International Tracing Instruments” for participants from countries of West Africa. The seminar was held in the Czech Republic on 14–18 September 2009. During the second evaluation conference of the UN Action Programme the Czech Republic and Kenya held an accompanying event at the beginning of September 2012 in New York on the topic of “National Experience with the Marking and Monitoring of Weapons and Ammunition”.

3.3 Cluster munitions

The use of cluster munitions (CM) poses a major humanitarian risk. Containers launched from planes or fired from the ground contain large amounts of explosive ammunition that explodes before, when or after it hits the ground. As a weapon with high spatial effect, if used inappropriately, it does not differentiate between combatants and civilians. Up to 25 % of CM fail upon impact and do not explode, so after the end of the conflict they act like antipersonnel mines, are attractive for children (they generally look like a shiny jingle bell), and explode accidentally or upon physical contact, e.g. when soil is ploughed.

In February 2007 the conference on restrictions on CM was launched by the “Oslo Process”. A total

of 46 countries (including the Czech Republic and another 20 EU countries) agreed to apply a legally binding international instrument to prohibit the use, production, transfer and storage of CM by the end of 2008. The “Convention on Cluster Munitions” (CCM) was negotiated in Dublin on 30 May 2008 and officially opened for signature in Oslo on 3 December 2008. There, the CCM was signed by over 100 countries; it was signed on behalf of the Czech Republic by the Minister of Foreign Affairs K. Schwarzenberg. CCM became effective on 1 August 2010 and by the end of 2013 had 84 contracting parties and 29 signatories. The Czech Republic became the first contracting party to the CCM on 1 March 2012; back in 2011 the Army of the Czech Republic had eliminated and destroyed the remaining Soviet-made inventory in compliance with the commitments adopted under the CM.

The introduction of the CCM outside the UN framework was a response to the lengthy negotiations concerning the new protocol (Protocol VI) on the restriction of CM on the “Convention on Certain Conventional Weapons” (CCW) under the auspices of the UN. The excessive demands of the commitment, involving an absolute ban on CM deterred the main users and producers of cluster munitions from signing the CCM. In practical terms, the Convention thus only covers a small proportion of CM (approx. 10 % of the global volume), particularly older products. Therefore, negotiations on Protocol VI to CCW continued in Geneva, although they broke down at the end of 2011 despite the efforts of those involved, with no hope of seeing the process renewed in the longer term. This failure was largely down to the difficult questions of the compatibility and complementarity of the two international instruments of varying complexity relating to the same subject of legislation.

4. International control regimes

International control regimes

International control regimes (ICR) monitor and restrict the international movement of goods, software and technology which are or could be used for military purposes, with the aim of preventing the proliferation of weapons of mass destruction and the proliferation of conventional weapons in sensitive areas. ICR are intergovernmental groupings, aiming to create a consistent export regime based on common principles and procedural rules incorporated into national legislation and customs measures. Since 1996 the number of ICR has remained consistent at five; the various regimes differ depending on their focus. The non-proliferation of nuclear weapons is the responsibility of the Nuclear Suppliers Group (NSG) and the Zangger Committee (ZC); the non-proliferation of chemical and biological weapons is the responsibility of the Australia Group (AG); missile carriers are governed by the Missile Technology Control Regime (MTCR), backed up by the Hague Code of Conduct against Ballistic Missile Proliferation (HCOC) while conventional weapons are

governed by the control regime of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (WA).

Like most other developed industrial countries, the Czech Republic plays an active part in these regimes. Although its activity is not derived from international treaties (the exception being the Zangger Committee, whose role is derived from the Treaty on the Non-Proliferation of Nuclear Weapons), it is focused on assuring thorough compliance with the commitments of the participating countries under UN legally binding international treaties relating to the ban and/or non-proliferation of WMD⁹ and SALW. In this respect, international control regimes effectively supplement and enhance the system of these UN instruments.

As already stated, the arms trade in nuclear, chemical and biological weapons as well as in means of delivery capable of delivering such weapons is banned in the Czech Republic under Act No. 38/1994 Coll.¹⁰ A directly related issue is the control of exports of dual-use items, which forms part of the work of the aforementioned international control regimes. In the Czech Republic the export of items of all international control regimes is in accordance with Council Regulation (EC) No. 428/2009, which implements the European Community regime for the control of the export, transfer, brokering and transit of dual-use goods, dated 5 May 2009, which became effective as of 27 August 2009 and fully replaced Council Regulation (EC) No. 1334/2000, and in accordance with Act No. 594/2004 Coll., implementing the European Community regime for the control of the export, transfer, brokering and transit of dual-use goods, as amended. The Czech Republic's activity in these international control regimes, with the exception of the Wassenaar Arrangement, has no direct impact on Czech foreign trade in military material and remains largely a case of diplomacy and prevention.¹¹

The proliferation of weapons of mass destruction is not the only problem associated with military material. Small arms and light weapons kill an unacceptably large number of civilians around the world and the global community is becoming more and more responsive on this issue. The risks posed by transfers of small arms and light weapons to NSAs are illustrated by examples of the abuse of portable air defence systems against civil aviation.

As regards the control of small arms and light weapons the Czech Republic remains true to its status, actively participates in existing control regimes and advocates the global imposition of stricter controls similar to those by which it itself is bound.

⁹ Important in this respect is United Nations Security Council Resolution No. 1540 (2004) on the non-proliferation of weapons of mass destruction (WMD) non-state entities.

¹⁰ "Trade in military material must not include weapons of mass destruction, meaning nuclear, chemical and biological weapons." § 4 of Act No. 38/1994 Coll.

¹¹ In the field of chemical weapons the impact of international control regimes on Czech foreign trade cannot be precluded. The problem of the proliferation of weapons of mass destruction is closer to the issue of dual-use goods than to that of military material.

Control regimes around the world have bodies focusing on a specific type of weapons, most often on weapons of mass destruction, as stated above. The only similar initiative at the global level, focused only on small arms and light weapons and restricted only to illicit trade in such, is the aforementioned “UN Action Programme to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects”. The alternative to creating other special regimes for small arms and light weapons is to increase the emphasis placed on this type of material in control regimes with a broader scope, either at the regional¹², or global level¹³.

Wassenaar Arrangement – WA (*Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies*)

The Wassenaar Arrangement (WA) on Export Controls for Conventional Arms and Dual-Use Goods and Technologies was established in 1995 as a control grouping focusing on a broad range of conventional weapons and dual-use material, i.e. items primarily intended for industry, but also usable for the manufacture of conventional weapons. The activities of the WA essentially comprise a specific system of international exchange of information about general aspects of international trade in strategic goods, such as global arms trade trends, the security situation in certain regions, suspicious purchases by a particular country, suspicious projects or firms in a particular country, etc., as well as reporting specific transfers of listed items to countries outside the WA or denied applications for export to such countries. Every year the WA updates the lists of controlled items and extends its set of rules of best practice in order to keep pace with technological advances and geopolitical developments; proof of this can be seen, for example, in the start of discussions concerning the risk of the spread of thermobaric weapons and “cloud computing”. Although these WA instruments are not of a contractual nature and the WA comprises only 41 participating countries, it has managed to expand the scope of its practical application in both geographic and substantive terms through links with non-member countries (as regards the number of items covered).

5. International embargos

The Czech Republic respects all weapons embargos imposed by the UN, EU and the Organisation for Security and Cooperation in Europe. It also plays an active part in formulating and updating them

¹² Besides the EU mechanisms concerning arms exports mentioned above (CP 2008/944/SZBP), other examples of regional cooperation in the control of arms transfers are the Nairobi Protocol and similar initiatives as part of MERCOSUR, OBSE or CARICOM.

¹³ The principal treaty besides the Wassenaar Arrangement is the planned Arms Trade Treaty.

within all the above international organisations.

Like the range of individual embargoes, the list of countries subject to a partial or complete international embargo is constantly changing during the year, as a result of the relevant rulings passed by the UN Security Council (UN SC resolutions), the EU Council, and other bodies, where applicable.

The wording of an embargo usually contains a definition of the material that the embargo covers and the area or end-user being targeted. Material often tends to be described in very broad terms as “arms and related material”; it is only in certain cases that a ban is placed on the import of heavy equipment¹⁴ or light arms¹⁵. In the case of embargos undesirable end-users may be the governments of certain countries (e.g. the EU embargo on Burma/Myanmar) or non-governmental armed militias operating in a certain territory (e.g. the embargo on Lebanon). The various EU resolutions and restrictive measures general grant exceptions to embargos, for supplies for peacekeeping missions or for the protection services of European embassies.

The EU imposes complete weapons embargos with the minimum of exceptions on North Korea, Burma/Myanmar, Iran, Sudan and Zimbabwe and Belarus. Embargos on Iraq, the Democratic Republic of Congo, Liberia, Libya, Ivory Coast, Somalia and South Sudan only permit supplies for international missions operating in the various countries and, in certain cases, also supplies to government security forces.

Restrictive measures on Lebanon restrict supplies to transactions approved by the Lebanese government. The European Union Madrid Declaration of 27 June 1989, which shortly after the events in Tiananmen Square placed an embargo on China, explicitly mentions a ban on the export of weapons misused to suppress human rights. The EU interprets the embargo on the forces involved in the conflict in Nagorno-Karabakh as an embargo on Armenia and Azerbaijan. Member countries of ECOWAS (the region of West Africa) apply their own special control regime. This regime applies to small arms and light weapons, and other selected military material, where applicable. The Czech Republic supports this regime and supplies to ECOWAS countries must be substantiated by the appropriate documents.

Specific examples of restrictive measures are the prohibitions on supplies to terrorist groups and the ban applicable in the Czech Republic on trading in anti-personnel mines and cluster munitions¹⁶.

¹⁴ Heavy equipment in the UN context means weapons included in the OSN registry (UNROCA). The UN thus uses embargos to restrict imports to Iran and North Korea.

¹⁵ For instance the ECOWAS states moratorium.

¹⁶ See Section 3.3.

6. Summary of Annexes

Annex No. 1

Specification of military list items (ML) in accordance with Decree No. 210/2012 Coll.

Annex No. 2

Licences granted and licence usage for the export (sale) of military material in 2013

Annex No. 3

Proportion of military list items in export licence usage in 2013

Annex No. 4

Export (sale) of certain military material to entities abroad in 2013

Annex No. 5

Actual exports (sales) of military material in 2004 - 2013

Annex No. 6

Exports of military material – sales to entities abroad in 1994 - 2013

Annex No. 7

Licences granted and licence usage for imports (purchases) of military material in 2013

Annex No. 8

Proportion of military list items in import licence usage in 2013

Annex No. 9

Import (purchase) of certain military material from entities abroad in 2013

Annex No. 10

Imports of military material – purchases from entities abroad in 1994 - 2013

Annex No. 11

Licences granted and licence usage for import and subsequent export (brokering) of military material in 2013

Annex No. 12

Permits for foreign trade in military material in 2013

Annex No. 13

Licences granted for foreign trade in military material in 2011, 2012 and 2013