

## **STRATEGIC GOODS COMMISSION ACTIVITY REPORT 2009**

The Strategic Goods Commission is a body within the Ministry of Foreign Affairs for licensing and supervising of strategic goods. The Commission is composed of the representatives of the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of Economic Affairs and Communications, the Security Police Board, the Police Board (from 2010 on, the Police and Border Guard Board), as well as the Tax and Customs Board. In accordance with Section 48 of the Strategic Goods Act, the Strategic Goods Commission submits an activity report to the Government of the Republic at least once a year.

### **I. Overview of the developments in international export control and the activities of the Strategic Goods Commission in 2009**

The purpose of the international control of the export of strategic goods is to monitor the movement and supplies of military and dual-use goods, so as to ensure peace and security. The export control system has been developed for implementation of international treaties concerning the limitation of the proliferation of arms. Every year, the importance of export control increases in connection with the need to combat the spread of terrorism and the proliferation of weapons of mass destruction.

Estonia is a participant in three export control regimes: the Wassenaar Arrangement, the Nuclear Suppliers Group, and the Australia Group. In 2009, Estonia participated in: the Wassenaar Arrangement General Working Group's, Expert Group's, as well as the security and intelligence experts' regular meetings, also the Plenary Meeting, in Vienna; in the Nuclear Suppliers Group Consultative Committee meetings in Vienna, and the Plenary Meeting in Budapest; as well as the Australia Group's Plenary Meeting in Paris. Just as in the previous years. In 2009, the countries participating in the Missile Technology Control Regime again failed to reach a consensus concerning the accepting of new members (besides Estonia, seven other EU Member States are also waiting to achieve membership status), and thus, Estonia's accession to this organisation is being postponed for the future. Estonia has fulfilled the criteria for membership.

In August of 2009, the new EC Regulation No 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items came into force. The main amendment, compared to EC Regulation 1334/2000, is the brokering and transit control of goods of this nature. European Union common lists, the list of dual-use goods and the list of concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, apply directly to Estonia. The strategic goods lists used in international export control regimes were amended, and the changes were also carried over to the European Union lists. The military goods list of the Republic of Estonia is in the process of being conformed to the amendments made to the Common Military List of the European Union in 2009.

Directive 2009/43/EC simplifying terms and conditions of transfers of defence-related products within the Community, was adopted in 2009. The aim of the directive is to simplify the rules and procedures applicable to intra-Community transfers of defense related products to ensure the proper functioning of the internal market. European Union Member States have until June 2011 for adoption of the directive. To ensure harmonised implementation of

common principles a working group has been established, in which Estonia also participates. Strategic Goods Commission has already taken steps towards the adoption of the Directive in Estonia.

Representatives of the Strategic Goods Commission also participated actively in European Union working groups dealing with export control (Working Group on Conventional Arms Exports (COARM) and in the dual-use goods working group (WPDUG), total of 14 times.

Due to limited human and financial resources, in 2009, Commission representatives did not participate in international PSI (Proliferation Security Initiative - the initiative for preventing the proliferation of weapons of mass destruction) training sessions. Participation in these training sessions was also hindered by the geographic remoteness of the locations in which they took place.

## **II. Increasing awareness concerning strategic goods in 2009**

The Strategic Goods Commission regards it as essential to increase awareness concerning strategic goods among both: the Commission's clients - enterprises, scientific and academic circles - as well as the Commission's member organisations.

In March of 2009, a three-day training session specialising in customs administration, was held for customs officials and students of the Estonian Public Service Academy. The seminar focused on the controlled strategic goods, used in chemical, biological, and nuclear weapons and in missile technology. The lecturers were officials from Security Police Board, Ministry of Foreign Affairs, and Tax and Customs Board. The programme was compiled on the basis of U.S. National Nuclear Security Administration materials.

In cooperation with the U.S. National Nuclear Security Administration and Strategic Trade Services OÜ, two information days, addressing the issues of strategic goods, were held at the beginning of November 2009. The information day held on 4 November 2009, was the first of its kind, with the target group and topics having been chosen on the basis of spheres of interest of scientific and academic circles. On November 5<sup>th</sup>, 2009, a seminar was held for enterprises. Both events received very positive feedback.

Estonia participated, in the form of a presentation, at a seminar dealing with strategic goods control, organised in Tbilisi, within the framework of the European Union international awareness raising programme. In the second half of the year, the *Riigikogu's* (Estonian parliament) Foreign Affairs Committee was presented with the work of the Strategic Goods Commission.

The Strategic Goods Commission endeavours to disseminate information concerning export control, getting together with professional associations and enterprises for this purpose. In 2009, meetings were held with the Biotechnology Association and the IPSC Estonian Practical Shooting Association. The Strategic Goods Commission was also introduced to the Estonian Defence Industry Association, and a more thorough meeting will hopefully ensue in 2010. Also, an article about export control was published in the Journal of Commerce and Industry.

In 2009, Tax and Customs Board officials, together with representatives of the Strategic Goods Commission, visited eight enterprises dealing with strategic goods. The objective of these visits was to raise awareness among enterprises about the regulations and their compliance with the law as well as the customs formalities related to strategic goods. These visits are continuing in 2010.

In autumn 2009, at the initiative of the Tax and Customs Board, a working group was established, consisting the representatives of the Environmental Board's Radiation Safety Department, the Security Police Board, the Estonian Rescue Board, and the Border Guard Board (starting in 2010, the Police and Border Guard Board). The objective of the working group is to draw up a joint action guide for detecting radioactive contraband on the European Union's external border. In the spring of 2010, the agencies coordinated the guide and it will be put into practice.

In 2009, the Tax and Customs Board analysed in detail Estonia's trade with countries which are subject to an embargo. Consequently an analysis was issued, concerning the movement of the precursors of chemical weapons, as well as of 3<sup>rd</sup>, 5<sup>th</sup>, and 6<sup>th</sup> category of dual-use goods list. In 2010, the monitoring and analysis will continue, and the movement of dual-use goods that could possibly have connection with biological weapons, is to be kept under thorough observation.

### **III. Measures planned for the enhancement of strategic goods control in 2010**

The Strategic Goods Commission has several activities planned for 2010, which should enhance strategic goods control in Estonia, and improve the functioning of the Strategic Goods Commission. These activities encompass, among other things, following:

- renewal of the Strategic Goods Act in order to bring it into accordance with the developments that have taken place since 2004 in the international export control sphere, as well as to eliminate gaps and ambiguities;
- updating strategic goods lists, comply them with changes that have been made to control regime lists;
- making proposals for amendment of the Penal Code, in order to bring the punishments to be imposed for the offences related to strategic goods into conformity with harmfulness of these offences and international practice;
- organising of the seminar about strategic goods control, for prosecutors and other authorities involved with the administration of justice, so as to increase their knowledge concerning strategic goods control and the security environment, as well as to improve the quality of sentences imposed (has been delayed from 2008, due to the plans for reforming the Penal Code, to 2010);
- in case of interest shown by the press, publishing of the articles introducing the field;
- in case of existence of technical means and financial resources, introduction of electronic licensing programme;
- dealing with other relevant issues pertaining to arms control, including dealing with the matter of cyber attacks in the context of arms control, preparations for implementing the Internal Compliance Program (ICP) and new general authorization, as well as participating in the working group for the amending of the existing legislation concerning weapons, in the formulating of demilitarisation requirements, in the improved solving of various special cases concerning licensing, as well as in the

promoting of cooperation with other government agencies for the enhancement of export controls.

Security Police Board, as one of the members of the Commission dealing with official monitoring, plans, in 2010, to enhance cooperation with the special services of various states for the prevention of illegal proliferation of conventional weapons and weapons of mass destruction, as well as the technology, materials, and equipment necessary for their production, to participate in international exercises in this sphere for practising of interstate cooperation in various scenarios. Domestically, in 2010, the Security Police Board plans to continue the monitoring of military and dual-use goods, paying increased attention to the ascertaining of the illegal transactions of firearm components.

The Tax and Customs Board plans to continue, in 2010, the tradition of visiting enterprises dealing with strategic goods, and to conduct primary as well as follow-up visits. This makes it possible to carry on dialogue with the enterprises, as well as to focus their attention to relevant legislation and possible problems that may arise. In 2010, the analysis of the export and import of dual-use goods will also continue. Greater attention is being paid to the analysis of the possible cross-border movement of the precursors of chemical weapons.

#### **IV. Statistics of the activity of the Strategic Goods Commission of 2009**

##### **1. The number of issued licences, certificates, and documents concerning end-use control, as well as consultations provided**

The Strategic Goods Commission issued special authorisations and end-use control documents for strategic goods as follows:

- export licences of dual-use goods - 21;
- import licences of military goods - 57;
- export licences of military goods - 25;
- transit permits - 3;
- international import certificates - 1;
- end user certificates - 24;
- EU001 General Export Authorisation user certificate - 2.

Altogether, in 2009, 133 documents were issued, including 106 special authorisations, 25 end use control documents, and 2 EU001 General Export Authorisation user certificates. On the basis of strategic goods authorisations, goods, in the total value of 98 million EEK were exported, imported, and transported through Estonia, and end-user control documents concerning goods valued at over 518 million EEK, were issued (see statistical annexes).

Nearly 200 times, the Secretariat of the Strategic Goods Commission gave consultations to persons about licensing and classification of strategic goods. In addition to this, officials of the Tax and Customs Board turned to regional contact persons dealing with strategic goods to obtain an opinion about whether particular goods should be categorized as strategic goods, and whether they require a licence or not, 551 times, which is 1.5 times more than in 2008, when the respective number was 338. Likewise, the number of inquiries about strategic goods through the information telephone number increased, which shows the increasing awareness of shippers concerning goods requiring special authorisation.

In accordance with §5 of the Strategic Goods Act, Customs must be informed about goods moving between European Union Member States, at least 24 hours before being taken across the border. In 2009, enterprises and individuals dealing with strategic goods sent such notices to the Tax and Customs Board a total of 105 times. In two cases, a notice was not sent, on the basis of which the Tax and Customs Board initiated a misdemeanour proceeding. There have not been any repeated cases of not sending an appropriate notice.

The Strategic Goods Commission uses all ordinary means of communication for in-house communicating. A special programme known as Tracker is used for processing licenses. In addition to constant communicating via electronic information channels 18 virtual, 1 regular and 2 extraordinary meetings involving physical participation, in 2009, were held.

## **2. Entry in the state register or refusal to make an entry in the state register of brokers of military goods**

In 2009, the Strategic Goods Commission received one application for entry into the State Register of Brokers of Military Goods, which was approved. At the beginning of 2009, an application that had been submitted at the end of 2008 was also approved. By the end of 2009, five brokers had been entered into the State Register of Brokers of Military Goods: Musket OÜ, Dolfin Aero OÜ, Fortestar OÜ, Atostat OÜ, and Stratlink OÜ.

## **3. Refusals to issue a license, certificate, or end-use control document**

The Commission did not approve submitted applications twice. The Commission based its decisions upon §16 of the Strategic Goods Act, as well as European Council Common Position 944/2008, which specifies the common rules regulating the export controls of military technology and equipment.

## **4. Violations connected with strategic goods, and violations of international sanctions**

In 2009, the Tax and Customs Board discovered a total of 26 violations in the strategic goods sphere, which were connected with the transporting of goods without a licence, or the failure to submit a notice on the movement of goods within the European Union. The number of violations, compared to 2008, increased by 11.

In 2009, the Security Police Board had reason to initiate criminal proceedings on the basis of §392 of the Penal Code - the illegal importing or exporting of strategic goods - in 19 cases, in 17 of which, it was established that individuals had committed a crime, but in 2 cases the criminal proceedings were terminated since the goods that were, at first, regarded as being strategic, were proven not to be so.

Illegal import, export or transit of strategic goods was discovered with regard to the following strategic goods: helicopter spare parts, electric shock devices, firearm components and gas masks, pyrotechnics, etc. Nine of these crimes were connected with the illegal importing or exporting of electric shock devices. In five cases, the crimes involved firearm components, which are not essential firearm parts by the meaning Weapons Act, but which, when importing them into Estonia, or exporting them from Estonia, or in the case of their transit through Estonia, must have, in accordance with the Strategic Goods Act and the Military Goods List, a permit issued by the Strategic Goods Commission.

Taking into consideration the circumstances of the offences committed and the extent of the guilt of the individuals, it was found that in the case of the seven aforementioned crimes, connected with strategic goods, it was possible to ensure the subsequent law-abiding conduct of the individuals, who had failed to fulfil the control requirements subscribed by law, without penalizing them in accordance with criminal procedures, so the proceedings against them were terminated due to lack of public interest. In two cases, the detention of suspects was necessary. In eight criminal cases involving strategic goods, a decision will be made in 2010.

Individuals who had violated control requirements had to make penalty payments, or pay compensation for damages caused by the crimes, to the extent of 80 800 EEK. The smallest penalty payment paid was 3 000 EEK and the largest 20 000 EEK. In comparison: the state fee for a licence, from the Strategic Goods Commission would be 200 EEK.

**Annex 1. Goods imported, exported, and transited on the basis of licences and certificates (General Authorisation nr. EU001), their value, as well as the countries of origin and destination**

Category of the goods	Quantity	Value	Origin	Countries of destination
<b>Export of dual-use goods</b>				
1A004	19100 m	27878 EUR	EE	RU
1A007	17 pcs	2802,34 EUR	EE	US, LV, SE, NO
1C350	362000 kg	30000 EUR	EE	RU, BY
		2654640 EEK		
		105400 USD		
		5987 USD		
5A002a1	863 pcs	300668,4 EUR	SE	KZ, US, TR
6A002	4 pcs	7015 EUR	EE	ZA, CL
9A012	1 pcs	0 EEK	CA	CA
9A115	1 pcs	10500 USD	EE	CA
<b>Export of military goods</b>				
ML1	3 pcs	608 USD	US	LV
ML4	448236 pcs	5488600 EEK	EE	OM, MY, GB, NL, KE
		3036 GBP		
ML6	7561 pcs	354873,6 EUR	GB, EE	FI
		576911 EUR		
		25000 EEK		
ML10	44 pcs	1005770 EUR	RU, CZ, UA, EE	LV, EE, CZ, RU, CA, IT, SK
		99890 USD		
ML14	2471 sets	736042,5 EUR	EE	FI, DK, IN, AE, NLGE
ML15	2 sets	219900 EEK	US	US
<b>Import of military goods</b>				
ML1	2098 sets	714, 62 EUR	FI, CA, US, EE, IL, GB, CH	EE
	28 sets	665366,4 EEK		
	1 m	1207,93 USD		
ML3	300000 pcs	2850000 EEK	US	EE
ML4	162 pcs	199700 EEK	SE, CH, FI	EE
	500 kg			
	100 sets			
ML6	7974 pcs	609443 EUR	GB, SE, DE	EE
ML10	186 pcs	53376 EUR	CA, CZ, RU, US	EE
		1350175 USD		
		1120 CAD		
ML11	253 pcs	18661 USD	CA, US	EE
ML13	9 pcs	10058,2 EUR	PL, DE	EE
ML14	4 pcs	1000 EUR	CA	EE
	2 sets			
ML15	7 pcs	4723 USD	US, CH	EE
	5 sets	9483,85 EUR		
		69600 CHF		
		109900 EEK		
EST 7	75 pcs	541000 EUR	AT, US	EE
		4717,7 USD		

<b>Transit of military goods</b> ML10	1 pcs 2 sets	23500 USD	PE, RU	RU
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<b>Category of goods</b>	<b>Quantity</b>	<b>Value</b>	<b>Origin</b>	<b>Countries of destination</b>
<b>End-user certificate</b>				
ML1	5353 pcs 8 sets	6600 GBP 66360 USD 21696 EUR	UK, TR, DE	EE
ML2	3393 pcs 204 pcs	2458344 EUR 35561,75 USD 155831 SEK	FI, DE, US, ES, SE	EE
ML3	9851500 pcs 150 sets	308805 EUR 3506391,31 USD	FI, ES, BR	EE
ML4	240 pcs	1000 EUR	BG	EE
ML5	16 pcs 2 sets	289580,85 EUR	SE, US	EE
ML7	8 pcs	780 EUR	US	EE
ML10	1185 pcs 1 unit	111594 EUR	CZ, IT	EE
ML11	111 pcs 10 units 5 shipments	25937675 EUR	GB, FR	EE
N/A*	1 set	17500000 EEK	BE	EE
<b>International trading certificate</b>				
ML1	2000 pcs 300000	575000 EEK	US	EE
ML3	pcs	2850000 EEK	US	EE