

STRATEGIC GOODS COMMISSION ACTIVITY REPORT 2013

The Strategic Goods Commission is a body established by the Ministry of Foreign Affairs for the licensing and supervision of strategic goods to ensure the functioning of the strategic goods control system and discuss issues related to strategic goods. The Commission is composed of representatives of the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of Economic Affairs and Communications, the Internal Security Service, the Police and Border Guard Board, and the Tax and Customs Board.

According to its rules of procedure, the Commission submits to the Government of the Republic an annual activity report, which provides an overview of international events and developments in the area of export control and strategic goods control as well as measures to improve the control exercised by the state. The statistical data explaining the activity of the Commission has been attached to the activity report.

I Overview of events and developments in the area of export control in the international arena

The purpose of international export control is to monitor cross-border transfers of military and dual-use goods and possible arms procurements causing instability in order to contribute to and ensure national and international stability and security. Over decades, export control has proved its importance, primarily in preventing the spread of terrorism and the proliferation of weapons of mass destruction in the world. These objectives can only be met by multilateral cooperation with other countries, companies and international organisations globally as well as in the European Union.

Estonia continues as a participating state in three international export control regimes – the Wassenaar Arrangement (on Export Controls for Conventional Arms and Dual-Use Goods and Technologies), the Nuclear Suppliers Group (on the control of nuclear materials), and the Australia Group (fighting the spread of chemical and biological weapons).

In 2013, the lists of military goods, dual-use goods and very sensitive items were updated within the framework of the Wassenaar Arrangement. Discussions on new technologies, the promotion of information exchange and guidelines regarding the prevention of destabilizing accumulation, end-use control as well as transit, transshipment and brokering control of conventional arms continued. Discussions on cyber tools, internet control systems and cloud computing control also continued and the control lists of such goods and technologies were adjusted in 2013. Discussions on possibilities of involving new members also continued. In the plenary meeting held in December 2013 Estonia assumed the presidency of the plenary meeting for 2014. The Ministry of Foreign Affairs is in charge of the corresponding activities.

The main subject addressed in the Australia Group were the developments related to chemical weapons. Other main keywords were changes in the lists of goods, exchange of information concerning the best export control practices, new member candidates, general developments in the field, and increasing the efficiency of the arrangement. Mexico became the newest member state.

The Nuclear Suppliers Group had a very successful year—a three-year-long thorough review of lists of goods, done once in a decade, was finished. 54 changes in the lists of goods can be shown for the

three years worth of work. A new Technical Experts Group was established; it is convened as necessary to ensure smoother updating of the lists of goods in the future. Attention was also given to developments related to nuclear programmes endangering international security. Renewing the public website of the Nuclear Suppliers Group was approved; the website provides significantly more information now. It was decided to improve the plan on how to organise the provision of information. With the addition of Serbia and Mexico, the Group now has 48 member states.

Efficient cooperation is maintained within the European Union. The representatives of the Strategic Goods Commission actively participated in the meetings and information exchange of the working parties of the European Union involved in export control issues—the Working Group on Conventional Arms Exports (COARM) and the Working Party on Dual-Use Goods (WPDUG). The work of the working parties engaged in the UN Arms Trade Treaty (ATT) and involved in the implementation of Directive 2009/43/EC (simplifying terms and conditions of transfers of defence-related products within the Community) and Regulation (EU) No. 258/2012 (strengthening of export, import and transit control of firearms, their parts and components and ammunition) was also contributed to.

In 2013, the COARM working group mainly focused on the exchange of information between the member states regarding the export of military goods to sensitive destinations, the updating of the lists of goods, the establishment of the electronic data exchange system for refusals of transactions, and the effect arising from Regulation (EU) No. 258/2012 in export control of firearms and in the review of the EU Common Position on Arms Exports 2008/944/CFSP (concerning the principles applied upon the export control of military goods and the criteria for denial of transactions). The latter was viewed, above all, in the context of effects arising from the entry into force and implementation of the ATT.

The WPDUG continued with the review of export control policies in the area of dual-use goods, initiated by the Green Paper consultations in 2011. The European Commission presented information gathered in consultations, which within the years to follow will be used for making actual proposals for changing the European Union policy on dual-use goods and for making it more effective. The Dual-Use Coordination Group set up on the basis of Article 23 of the Regulation (EU) No. 428/2009 on dual-use goods mainly focused on issues pertaining to the implementation of the Regulation, and several guidelines for harmonising the practices applied in the member states were also agreed upon. Discussions also concerned the control of new technologies as well as information and communication technologies.

The year 2013 brought with it developments in the area governed by Regulation (EC) No. 1236/2005 (goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment). At the end of the year the European Commission presented its proposals for updating the lists of goods and for amending the Regulation. Both proposals for amendment significantly improve the existing procedure and thorough discussions will be continued in 2014.

The European Commission and experts from the member states discussed possibilities on how to implement the simplified procedure for transfers of defence-related products established by Directive 2009/43/EC in 2012 more effectively within the European Union. The procedure established by the Directive has not delivered the expected positive effect on the competition between European Union companies. It is probably because the defence industry companies of the

European Union and third countries are largely integrated, and because it will take more time to become accustomed to the new system. The European Commission and the member states are actively contributing to raising awareness, so that companies would make more use of the simplifications set out by the Directive.

Within the framework of regional cooperation two meetings were held for export control experts from the Nordic-Baltic countries in 2013—in Reykjavik and in Copenhagen. The meetings were held to exchange information about developments in export control arrangements, amendments in legislation and resolving current issues.

On the 2nd of April 2013 the United Nations (hereinafter the UN) reached an agreement for the conclusion of the UN Arms Trade Treaty (ATT). Estonia signed the Treaty on the 3rd of June and on the 14th of November the Government of the Republic gave its consent for the interim application of Articles 6 and 7 of the Treaty. Those Articles set out the assessment criteria that the exporting countries must follow when making transfer decisions (arms embargoes, illicit arms trade, genocide, crimes against humanity, war crimes, etc.). The ATT is the first international treaty to set down standards and principles for making decisions on transfers for the exporters and importers of conventional arms as well as transit countries and brokers. Hopefully, the Treaty will enter into force globally in 2014. With the entry into force of the ATT there will not be any significant changes in export control in Estonia because Estonia already applies the principles outlined in the draft Treaty.

In 2013 Estonian experts also gave their contribution to the outreach activities to third countries concerning Indonesia and Georgia. Several international export control conferences were attended. The development of the export control legislation of Georgia was contributed to as well.

II Changes in national legislation

The year 2013 was legislation-wise stable in a positive sense. The national lists of military goods and defence-related products were updated taking into account the changes agreed in export control regimes and the renewed list of military goods of the European Union. The lists of dual-use goods are planned to be updated in 2014.

In previous years the Strategic Goods Commission has made several proposals for amending the Penal Code to bring punishments for strategic goods related offences in conformity with their harmfulness and international practice and to ensure efficient, proportional and dissuasive penalties. Cooperation with the lead ministry (the Ministry of Justice) in implementing the changes continues.

III Activity of the Strategic Goods Commission

1. Increasing awareness concerning strategic goods in 2013

The Strategic Goods Commission continues to pay undivided attention to improving awareness of strategic goods in all related fields. Since several seminars for the companies involved in military goods and dual-use goods were organised in 2012, no seminars were organised for the companies in 2013 considering the number of such companies and the small number of changes in control over the last year. But information concerning strategic goods control on the website of the Commission

was constantly updated and important information was passed on to the Commission's clients through e-mail.

In 2013, the officials of the Tax and Customs Board (hereinafter also the TCB) together with the representatives of other authorities involved in the Strategic Goods Commission visited three companies dealing with strategic goods. The visits aimed to introduce strategic goods control legislation and customs procedures to the companies, thereby raising the level of awareness and their ability to operate within the law. During the period of 2007–2012, 46 companies involved in strategic goods were visited for preventive purposes. In 2014 these visits will continue.

In May 2013, the TCB in cooperation with the Ministry of Foreign Affairs, the Internal Security Service, the Technical Surveillance Authority, the Ministry of the Environment and the Rescue Board organised a strategic goods training intended for Estonian officials based on the commodity identification training materials of the U.S. Department of Energy (so-called CIT training). The officials of the TCB, the Rescue Board, the Internal Security Service, the Ministry of Foreign Affairs and the Police and Border Guard Board took part in the training. The training aims to raise the officials' knowledge and awareness of strategic goods. Such cooperation trainings will continue in 2014 as well.

In 2013, the installation of radiation monitors, with assistance provided by the USA, was completed in the passenger terminal of Tallinn Airport and in 2014 such monitors will be installed in the cargo terminal of Tallinn Airport.

In 2013, the TCB continued analysing information concerning the export, import and transit of strategic goods and Estonia's trade with countries under embargoes. This analysis is updated twice a year. Analyses are also carried out to assess general risks related to the import, export and transit of strategic goods, as well as trends in illegal trafficking investigated on the basis of the revealed offences in other countries of the European Union.

2. Measures planned for the enhancement of strategic goods control in 2014

The Strategic Goods Commission will continue the activities that make the control of strategic goods in Estonia more effective and improve the work organisation of the Strategic Goods Commission. Several of these activities, such as the organisation of seminars, outreach, trainings and updating the lists of goods, remain the central activities of the Commission every year.

The major activities planned for 2014 are:

- organising and carrying out a procurement for a new electronic special authorisations processing database;
- improving relevant legislation, including updating the lists of strategic goods;
- contributing to the work of international export control regimes and the European Union working parties as well as to regional cooperation, and making proposals to amend the lists of the regimes, if necessary;
- providing assistance in developing demilitarisation requirements;
- organising awareness raising events and seminars for entrepreneurs, researchers and experts dealing with strategic goods to enhance general awareness and responsibility, introduce legislation and international guidelines and promote cooperation;

- contributing to the continuing inter-agency training led by the Tax and Customs Board with the aim of promoting cooperation between authorities in enhancing strategic goods control;
- updating the website of the Commission with information concerning strategic goods and practical information on arms embargoes and restrictive measures of the European Union;
- in case of media interest, publishing articles on the subject and providing information for the public;
- providing assistance in organising international seminars on the control of strategic goods in Estonia.

The authorities and supervisory organisations of the Commission continue to cooperate with the partner services of other countries for the prevention of the illicit proliferation of conventional arms and weapons of mass destruction as well as the technology, materials and equipment necessary for the manufacture thereof. To enhance transnational cooperation, they will participate in international exercises and seminars. In addition to continued training, additional knowledge is obtained during meetings with various experts within the framework of export control organisations and everyday international cooperation.

3. Statistics of the Strategic Goods Commission activities in 2013

1) Number of issued licences and end-use control documents as well as consultations provided

In 2013, the Strategic Goods Commission issued special authorisations and end-use control documents for strategic goods as follows:

- export licences of military goods—62;
- import licences of military goods—81;
- transit licences of military goods—5;
- licences for the provision of services related to military goods—2;
- export licences of dual-use goods—40;
- military goods brokering export licences—2;
- end-use certificates—2;
- international import certificates—3.

No licences were processed with regard to the transit and brokering of dual-use goods.

In 2013, a total of 195 documents were issued, including 190 special authorisations. Goods were exported, imported and transferred through Estonia on the basis of special authorisations in the total value of EUR 88 million, which is over EUR 15 million more than in 2012 when the total value of goods was EUR 72.7 million.

The trend shows that the number of licences as well as the total value of strategic goods crossing the Estonian border under the licences have increased every year. However, the dynamics of actual cross-border movements of different goods varies quite a bit. The export of dual-use goods has significantly increased compared to 2012, but there has been a decrease in other areas. Nonetheless, no fundamental conclusions can be drawn from a decrease within a year because in the transit of military goods, for instance, the monetary volume of which is quite small, every single shipment is important. In 2013, the range of destination countries of export of military goods was widened with the addition of several countries considered exotic for Estonia (for example, Indonesia, Columbia

and the Republic of South Africa). At present it is still early to assess whether these one-time transactions will grow into permanent export flows. The fact that nearly 90 per cent of the total Estonian strategic goods export turnover falls within one group (5A002, telecommunications equipment) and on the shoulders of one exporter clearly shows that the Estonian defence industry will have plenty of room for development in the future.

The officials of the Tax and Customs Board contacted its strategic goods experts on 742 occasions for obtaining their expert opinion on whether or not the goods required a Strategic Goods Commission licence. On 742 occasions additional inspection of documents was carried out and physical inspection of goods was performed to establish the strategic nature thereof. The Secretariat of the Strategic Goods Commission gave consultations to individuals and companies concerning strategic goods licensing and the identification of goods around 450 times, including around 100 inquiries submitted by the Tax and Customs Board.

The Strategic Goods Commission processes licences using a special inter-agency programme called Tracker, which was updated in 2012. In addition to daily communication via electronic communication channels, 24 virtual, conventional and extraordinary commission meetings were held in 2013.

2) Number of registered military goods brokers, certified undertakings and general licence users

In 2013, one company was registered as a military goods broker—OÜ Baltic Armaments. The registration of Taktikalise Laskmise Keskus OÜ expired. As of the 31st of December 2013, seven undertakings had the right to broker military goods: Armnord OÜ, Dolfin Aero OÜ, Bristol Trust OÜ, Rose Mons OÜ, Artemis Trading OÜ, Musket OÜ, Baltic Armaments OÜ. In conclusion, there was no change in the number of persons entered in the register of military goods brokers compared to 2012.

As of the 31st of December 2013, there were three registered general licence users; no changes were made in their registration. No certification applications were filed to the Commission in 2013; therefore, no undertakings were certified.

3) Special authorisations issued under Regulation (EC) No. 1236/2005 (goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment)

In 2013, the Strategic Goods Commission received no applications for the cross-border movement of goods subject to Regulation (EC) No. 1236/2005; therefore, no special authorisations were issued.

4) Denials to register issue a special authorisation or end-use control document

In 2013, the Strategic Goods Commission refused to issue a special authorisation or end-use control document or enter a broker into the register on three occasions. The issue of an export licence of military goods of category ML1, the issue of an export licence of dual-use goods of category 2B001b, and the issue of a licence for the provision of brokering services related to military goods

of category ML1 were each refused on one occasion. All denials were based on considerations arising from the end-user.

5) Offences related to strategic goods and violations of international sanctions and data on the end-use supervision and licence use follow-up control

Offences related to transfers of strategic goods are processed by the Tax and Customs Board and the Internal Security Service.

In 2013, the Tax and Customs Board discovered a total of 40 offences in relation to the transfer of goods without licences, failure to submit intra-EU notice or the submission of invalid licences to the Tax and Customs Board during customs formalities. The total number of offences has somewhat fallen compared to 2012.

The violations were primarily related to night vision sights, bullet proof vests, observation robots, armoured cars, weapons, spare parts of helicopters, electric shock weapons and telescopic batons not allowed for civic use that are subject to the Strategic Goods Act when moving across the border. These offences were processed by the Tax and Customs Board.

In 2013, the Internal Security Service commenced two criminal proceedings under § 392 of the Penal Code in connection with possible offences related to strategic goods. On 30.01.2013, criminal case No. 13913000002 was commenced because on 26.01.2013 a citizen of the Russian Federation, while crossing the state border of the Republic of Estonia, brought a firearm OSA PB-4 with four cartridges from the Russian Federation to Estonia through the Koidula border crossing point. The person had a weapons permit issued by the Russian Federation but he lacked the required special authorisation for the import of the said firearm and ammunition to Estonia. According to § 59 (1) and (3) of the Weapons Act, such a firearm and such ammunition may only be imported and exported on the basis of a single special authorisation the issue of which is decided by the Police and Border Guard Board on the basis of a corresponding application submitted by the person concerned. Taking into account the provisions of § 219 (2) of the Code of Criminal Procedure, the detention of the person as a suspect was substituted, and under § 200 and § 199 (2) of the Code of Criminal Procedure the criminal proceedings were terminated in respect of the person on the 1st of February 2013. Such a decision was based on the consideration that the person who tried to bring the above-mentioned firearm and four cartridges from Russia to Estonia without a special authorisation did not have a permanent or temporary place of residence in Estonia, the act constituted a criminal offence in the second degree which caused no harm and the punishment for which starts with a pecuniary punishment, and the person who had violated the law agreed to the pecuniary punishment and made a payment to the state revenue in an amount which covers the procedure expenses and the possible pecuniary punishment.

The Internal Security Service also commenced criminal proceedings on 04.10.2013 to verify information according to which pistols rendered incapable of firing, all essential components of which had not been rendered permanently incapable of firing as required, may have been illicitly (without the special authorisation provided by law) transferred from Estonia to Russia in the second half of 2013. The export thereof without a corresponding special authorisation may be considered to be illicit export of essential components of a firearm—in other words strategic goods. The

investigative actions performed at the end of 2013 did not clarify anything regarding those allegations, and the criminal proceedings will also continue in 2014.

In connection with an amendment to legislation the Internal Security Service terminated criminal proceedings in two criminal cases related to strategic goods in 2013. The Internal Security Service is proceeding with three criminal cases commenced in the previous years concerning the illicit transfer of strategic goods; in those cases the law was violated by persons living outside Estonia who left Estonia after committing the offence and whom the investigators have not been able to reach ever since. Considering the nature of the offences, it has not been deemed necessary to declare those persons to be fugitives or to prepare a European arrest warrant.

Transfers of strategic goods in 2013

Export of military goods

Category	Number of licences	Countries of destination of goods	Value of licences (EUR)	Actual export (EUR)
ML1	23	RU, KZ, ZA, UA	190,809	157,815
ML10	21	US, FR, CZ, SK, , GE, ID, TM, CO, UA, RU	1,878,802.97	54,060
ML13	1	BE	95,000	95,000
ML14	13	IN, AZ, VN, PL, BR, CZ, IT, KR, FI	567,721	53,203
ML15	3	LV, SA, KZ	20,885	10,590
ML6	1	GB	185,000	185,000
Total	62		2,753,217.97	370,668

Import of military goods

Category	Number of licences	Country of origin of goods	Value of licences (EUR)	Actual import (EUR)
ML1	3	CH, DE	20,063	
ML2	1	US	553,672.11	553,672
ML5	2	SK	390,342.63	
ML6	2	SE, EE	192,000	
ML7	1	US	23,994.48	23,994.48
ML9	1	GB	13.47	13.47
ML10	23	CZ, CH, RU, US, EE, GB	1,056,345.45	68,650.68
ML11	6	US, CA, DE, GB, RU	221,974	155,977

ML13	26	FI, GB, ES, US, HR, NO, PL, IL, IN, ZA, DE, CA	2,266,176.37	1,606,785.42
ML14	5	NO, PL, EE	325,700	0
ML15	8	US, EE	1,200,200.58	952,265.15
EST2	3	US, CA	2779.85	2130
Total	81		6,253,262.12	3,363,487.87

Note No. 1. The actual value of transfers under the licences issued in 2013 has been calculated based on reports received from the license holders as of 31 January 2013. If no transfers were made in 2013, the actual transfer value has been left blank. The value of goods exported for the purpose of demonstration is shown as "0".

Note No. 2. If the country of origin of the goods is shown as EE in the case of import of military goods, it means the return of military goods of Estonian origin from international defence industry exhibitions held abroad.

Transit of military goods

Category	Number of licences	Country of origin of goods	Country of destination of goods	Value of licences (EUR)	Actual transit (EUR)
EST2	1	US	LV	2000	2000
ML10	2	RU	ID, PL	175,454	131,294
ML13	2	CA, GB	LV	650	150
Total	5			178,104	133,444

Provision of services related to military goods

Category	Number of licences	Country of origin of goods	Country of destination of goods	Value of licences (EUR)	Actual provision of services (EUR)
ML10	2	UA	CA, US	8800	
Total	2			8800	

Note. The actual value of transfers under the licences issued in 2013 has been calculated based on reports received from the license holders as of 31 January 2013. If no transfers were made in 2013, the actual transfer value has been left blank.

Export of dual-use goods

Category	Number of licences	Countries of destination of goods	Value of licences (EUR)	Actual export (EUR)
1A004	1	RU	981,000	

1A007	1	PH	530	
1C350	7	RU, BY, MD	1,468,790.35	27,830
1C450	1	RU	234,360	
2B001	4	BY, RU	6,614,331	
2B350	5	RU	889,559.25	139,473.94
2B352	1	RU	2278	2278
2D001	1	RU	9000	
3A001	Global licence	MY, TH, AO, ID, MO, SC, SG, IS, BR, MX, PR, AR, PA, HT, BA, RS, ME, MK, UA, KZ, BY, TR, JO, KW, PS, TN, DZ, NG, GH, BW, BI, CM, CG, GN, GW, KE, LS, MG, MW, ML, MU, MZ, NA, RE, SN, SZ, TZ, UG, ZM, SL, BF, AW, BB, BJ, BO, BQ, BT, CL, CO, CR, CW, DO, GD, GT, HN, MD, NI, PH, JM, PG, KR, KY, LK, SV, TD, VE	157,000,000	3,981,009.27
5A001	Global licence		40,000,000	
5A002	Global licence + general licence		12,000,000,000	31,869,755.9 + 48,075,569.74
5B002	Global licence		100,000,000	124,093.72
5B001				
5D002	Global licence	5,000,000		
6A205	1	BY	8600	8600
6A003	13+1 general licences	RU	123,500	123,500 + 15,222.23
6A003	2 global licences	CN, HK, TW, MO, AR, BR, CL, CO, CR, EC, GP, GT, IN, IS, KR, LK, MA, MX, MZ, OM, PH, PE, PY, RU, SG, SV, TH, TR, TT, UY, VE, ZA, AL, AD, AM, AZ, BY, HR, KZ, MK, MD, MC, ME, RS, UA, UZ, DZ, AO, EG, MG, MR, MU, TN, KW, PK, SA, AE, MY, BO, NI, PA, ID	397,657,400	
9A115	1	CO	10,845.20	10,845.20
Total	40		12,710,000,193.8	84,378,178

Note. The actual value of transfers under the licences issued in 2013 has been calculated based on reports received from the license holders as of 31 January 2013. If no transfers were made in 2013, the actual transfer value has been left blank. The value of goods exported for the purpose of demonstration is shown as "0".