

STRATEGIC GOODS COMMISSION ACTIVITY REPORT 2012

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. This Commission is composed of representatives of the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of Economic Affairs and Communications, the Security Police Board, 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 have been attached to the activity report.

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

The purpose of international export control is to monitor the transfers of military and dual-use goods to contribute to and ensure national and international stability and security. The importance of export control has been growing in recent years, primarily due to the need to prevent 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 is a participating state in three international export control regimes – Wassenaar Arrangement (on Export Controls for Conventional Arms and Dual-Use Goods and Technologies), Nuclear Suppliers Group (on the control of nuclear materials) and the Australia Group (fighting the spread of chemical and biological weapons).

In 2012, the lists of military goods, dual-use 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 the destabilising accumulation of conventional arms continued. Of new subjects, attention was given to the following topics: cyber tools, internet control systems, cloud computing, issues related to the transport of arms by private security companies and the transit of military goods.

At the Australia Group meeting, security threats were discussed and an agreement was reached on brokering guidelines and updating the lists of goods. The Nuclear Suppliers Group is thoroughly updating the lists of goods. The topic of adding the control of the transit and brokering of nuclear materials, which many countries already apply, was discussed.

Membership issues were discussed and guidelines were updated. The countries of the Australia Group and the Nuclear Suppliers Group are discussing how to adapt in this rapidly changing world and how to successfully fight new threats by maintaining current principles and good cooperation.

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 Party on Conventional Arms Exports (COARM) and the Working Party on Dual-Use Goods (WPDUG). The review process in the area of dual-use goods, initiated by the Green Paper consultations in 2011, will continue. The first results are expected by the end of 2013. The Coordination Group established pursuant to Article 23 of Regulation No 428/2009 of the European Union focused primarily on the issues related to the implementation of the regulation.

Trade in certain goods that could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment are subject to control in accordance with Regulation 1236/2005 of the European Union. No substantial changes occurred in this area in 2012.

Within the framework of the Nordic-Baltic Co-operation, a meeting was held in Vilnius in 2012. The countries exchanged information and views regarding the work performed within the framework of export control arrangements, amendments in legislation and resolving current issues. An exchange of ideas between the Nordic-Baltic countries and the USA was held in May in Stockholm, driven by the consultations of the Green Paper of the European Union, which focused on possible changes in the export control of dual-use goods in the European Union. An Australia Group seminar was held at Wilton Park in Great Britain, where the participants discussed the future of the control of chemical and biological arms related goods. All stakeholders took part in the seminar and the participants focused on ways to raise the effectiveness of the controls.

The preparations for the conclusion of the UN Arms Trade Treaty (ATT) continued. Estonia participated in the UN diplomatic conference in New York from 2–27 July 2012. As a result of negotiations, a draft proposal was prepared, which sets out the assessment criteria that the exporting countries must follow when making transfer decisions of arms trade (arms embargoes, illicit arms trade, genocide, crimes against humanity, war crimes, etc.). This would be 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. Although the participants were very close to concluding an agreement, the document was still not complete for signing. The final round of the negotiations on the Arms Trade Treaty will be held on 18–28 March 2013 at the UN, based on the text prepared during the negotiations in July 2012.

This treaty is important for several reasons. Primarily, it establishes clear criteria for the trade in arms, prohibiting arms transfers in cases, for example, where such transfers violate the measures adopted by the United Nations Security Council, especially arms embargoes, or if these arms may be used for committing genocide or war crimes. The draft sets down the principle that when making decisions about arms transfers the risk of grave violation of international human rights and international humanitarian law or facilitation thereof will be taken into account as well as other important criteria. It also sets down the requirement that

the states must take necessary measures to control arms brokering and transit. The treaty should result in the decrease of illicit trade in arms and civilian victims and human suffering. Although trade in arms is currently not regulated by any treaty at global level, this treaty will not establish a completely new legal basis; rather it acknowledges clear principles on a global level. Estonia already applies the principles outlined in the draft treaty.

II Changes in national legislation

In 2012, a new Strategic Goods Act entered into force, transposing the changes made in the EU legislation and amending the current provisions. Seminars to introduce the new act to the companies involved in strategic goods were held. The first implementation year of the new act shows that it has been well received by the companies and that the solutions offered in it for resolving previously existed problems are functioning very well.

One of the major updates is related to the adoption of simplified rules and procedures applicable to the intra-Community transfer of defence-related products in order to ensure less bureaucracy for the transfers within the European Union. The implementation of the directive in the European Union started in the summer of 2012 and it can be said that although the new rules have not reached their maximum potential yet, all prerequisites for a new effective system have been created.

The national list of military goods was updated taking into account the changes agreed in export control regimes and the new list of military goods of the European Union. The list of defence-related items, which was adopted with Commission Directive 2012/10, was added to the lists of strategic goods from 1 January 2012. It is applied in case when the simplified rules for intra-Community transfers are used. After several years, the list of dual-use goods was updated with Regulation 388/2012.

The Strategic Goods Commission has made several proposals in previous years for amending the Penal Code to bring punishments for strategic goods related offences in conformity with their harmfulness and international practice and ensure efficient, proportional and dissuasive penalties. The Commission will continue to work with the Ministry of Justice to distinguish strategic goods penalties in the Penal Code.

III The activity of the Strategic Goods Commission

1. Increasing awareness concerning strategic goods in 2012

The Strategic Goods Commission pays undivided attention to improving awareness of strategic goods among companies, scientific and educational institutions as well as state authorities.

As the new Strategic Goods Act came into force, two seminars for the companies involved in military goods and dual-use goods were organised in February 2012. Changes in legislation, the rules for simplified transfers of defence related products in the European Union, new general licences, and issues related to customs formalities and controls, international sanctions and restrictions were discussed at these seminars.

In 2012, the officials of the Tax and Customs Board together with the representatives of the Strategic Goods Commission visited four companies dealing with strategic goods to introduce strategic goods control legislation and customs procedures with the aim of raising awareness and law-abidingness of the companies. During the period of 2007–2012, 42 companies involved in strategic goods have been visited for preventive purpose and in 2013 these visits will continue.

In May 2012 in Tallinn, the U.S. Department of Energy organised Commodity Identification Training for the representatives of the Tax and Customs Board, the Rescue Board, the Security Police Board, the Environmental Board, the Police and Border Guard Board, the Academy of Security Sciences, and the Ministry of Foreign Affairs to improve skills and knowledge in identifying goods and materials used in the production of weapons of mass destruction. In August 2012, a licensing official of the commission attended an information day on export control in the USA.

In 2012, the Tax and Customs Board organised two strategic goods trainings for the officials of Muuga customs point. In September 2012, the Tax and Customs Board lead the work of a project group consisting of representatives of the Tax and Customs Board, the Rescue Board, the Security Police Board, the Ministry of Foreign Affairs, the Technical Surveillance Authority and the Ministry of the Environment to create a strategic goods training module for those authorities in Estonia, who come into contact with strategic goods transfers. The first trainings involving relevant authorities will be carried out in 2013.

In 2012, the installation of radiation monitors, with assistance provided by the USA, began in the passenger terminal of Tallinn Airport with the aim of avoiding the entry of any radioactive contraband onto the territory of the European Union and Estonia. The radiation monitors will be functional from May 2013.

The Tax and Customs Board analyses twice a year Estonia's trade with countries under arms embargoes. 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. International cooperation

In 2012, the Strategic Goods Commission contributed to the organisation of two international export control workshops in Tallinn: a seminar for the government officials of Armenia with the participation of representatives of authorities from Bulgaria, Poland, Ukraine and the USA was held in March and a seminar for the government officials of Georgia with their colleagues from Bulgaria, Poland, Sweden, Armenia, Ukraine and USA was held in September. Both workshops were carried out within the framework of the USA Export Control and Related Border Security Assistance programme (EXBS). In addition to the discussed topics, such as the Wassenaar guidelines, criteria for the export of military goods, and the internal compliance programmes, the export control systems and experiences of the Flir and Ericsson Eesti business units were introduced.

The members of the Strategic Goods Commission also participated in the awareness raising seminar in Lithuania for Lithuanian companies, where the implementation of the Directive

on simplified terms of transfers of defence-related products within the Community was discussed, as well as the implementation of sanctions. The international cooperation will continue in 2013.

3. Measures planned for the enhancement of strategic goods control in 2013

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, remain the central activities of the commission every year.

The major activities planned for 2013 are:

- organising awareness raising events and seminars for entrepreneurs, researchers and experts dealing with strategic goods to enhance general awareness and responsibility, introduce Estonian legislation, international guidelines and the legislation of the European Union and promote cooperation;
- constant updating of strategic goods lists; making proposals to amend lists of international control regimes, if necessary;
- organising the first inter-agency training led by the Tax and Customs Board. Promoting cooperation between authorities;
- updating the webpage with information concerning strategic goods and practical information on arms embargoes and restrictive measures of the European Union. In case of media interest, publish articles on the subject;
- providing assistance in organising international seminars on the control of strategic goods in Estonia;
- providing assistance in working out demilitarisation requirements;
- developing and introducing a new electronic authorisations processing database.

As one of the supervisory organisations of the commission, the Security Police Board continues to cooperate with the special services of other countries for the prevention of the illicit proliferation of conventional arms and weapons of mass destruction and technology, as well as materials and equipment necessary for the manufacture thereof. To enhance transnational cooperation, they will participate in international exercises.

In a global context, the most important goal remains to control the illicit transfers of weapons of mass destruction and the material and technologies thereof between countries to avoid these materials ending up in countries under embargo or in the hands of aggressive end-users. The identification of such offences is very complicated and demands good professional skills from the supervisory officials in identifying the goods as well as checking documents, brokers and end-users. 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.

4. Statistics of the Strategic Goods Commission activities in 2012

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

In 2012, the Strategic Goods Commission issued special authorisations and end-use control documents for strategic goods as follows:

- export licences of military goods - 57
- import licences of military goods – 74
- transit licences of military goods - 6
- export licences of dual-use goods – 21
- military goods brokering export licence - 1
- end-use certificates - 7
- international import certificates – 18.

In 2012, a total of 184 documents were issued, including 159 special authorisations. In 2012, goods were exported, imported and transferred through Estonia with special authorisations to a total of 72.7 million euro, which is three times as much as in 2011, when it was 23.3 million euro. It is seven times as large as in 2010, when the total value of goods was 10.7 million euro.

When making risk analysis, the customs inspection and service officials of the Tax and Customs Board contacted the in-house contact persons dealing with strategic goods for obtaining their opinion on whether the goods required a Strategic Goods Commission licence on 749 occasions, and carried out additional inspection of documents and goods. The Secretariat of the Strategic Goods Committee gave consultations to individuals and undertakings 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, 23 virtual, conventional and extraordinary commission meetings were held in 2012.

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

Due to changes in legislation, all registrations made under the previous act were reviewed and their compliance evaluated in accordance with the new act. As of 31 December 2012, seven undertakings were given the right to broker military goods: Armnord OÜ, Dolfin Aero OÜ, OÜ Bristol Trust, Rose Mons OÜ, Artemis Trading OÜ, Taktikalise Laskmise Keskus OÜ, Musket OÜ.

As of 31 December 2012, there were three registered general licence users. No certification applications were filed to the commission in 2012; therefore, no undertakings were certified.

3) Refusals to make a registration, issue a licence or end-use control document

In 2012, Strategic Goods Commission did not refuse to issue any special authorisation, end-use control document nor enter a broker into the register.

4) 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 Security Police Board.

In 2012, the Tax and Customs Board officials discovered a total of 43 offences in relation to the transfer of goods without licences, failure to submit intra-EU transfer notice or the submission of invalid licences to the Tax and Customs Board during customs formalities. The total number of offences has grown compared to 2011, when the number of offences was 29. The violations were primarily related to zirconium, night vision sights, armoured cars, ML1 category firearms, electric shock weapons not allowed for civic use and telescopic batons that are subject to the Strategic Goods Act when cross border movement. In 80 per cent of cases, the offences were committed and discovered in the Port of Tallinn and Narva customs point. These offences were processed by the Tax and Customs Board.

The Security Police Board did not initiate any new criminal proceedings in relation to infringements of strategic goods in 2012.

In five criminal cases, a court verdict was made concerning crimes of illicit import and export of strategic goods committed in 2009–2011. These crimes involved the illicit import and export of firearms and ammunition and the offenders were assigned to the punishment of actual imprisonment up to four years. The court also ordered the convicted offenders to pay different sums up to 1,641 euro into the public revenue. In comparison, a state fee for licence applications from the Strategic Goods Commission in a timely manner would have been 12.78 euro.

In 2012, seven investigations related to strategic goods offences committed in 2010 and 2011 and processed by the Security Police Board were terminated. These offences were related to the illicit import of firearms parts listed in ML1 category of the military goods list, that are not essential parts of a firearm for the purpose of the Weapons Act. These proceedings were terminated, because according to the new act that came into force in 2012 and the list of military goods, the elements of civilian firearms, if they are not essential components of a firearm for the purpose of the Weapons Act, do not belong to the list of military goods and no special authorisation is required to bring them across the border. According to subsection 1 of § 21 of the Weapons Act, the essential components of a firearm are the barrel, breechblock, chamber and revolver cylinder and adapter thereof, and a special authorisation must still be obtained to transfer those from one country to another.

In 2013, criminal proceedings will be continued in five cases investigated by the Security Police Board concerning crimes committed in relation to strategic goods in 2009 and 2011.

Transfers of strategic goods in 2012

Export of military goods

Category	Number of licences	Countries of destination of goods	Value of licences (EUR)	Actual export (EUR)
ML1	16	RU, KZ, DE	1,473,688	208,718
ML3	1	UA	130,800	130,800
ML10	19	CN, US, FR, CZ, SK, RO, NL, LV, AO, GE, DE, BG	770,999	42,800
ML11	1	LV	14,380	0
ML13	3	BE, AT, UA	65,595	49,762
ML14	9	IN, GE, FR, AZ, PL, SK, CZ	223,606	38,047
ML15	7	SG, KW, AE, US, LV, CL	29,675	0
EST2	1	DE	2,000	0
Total	57		2,710,743	470,127

Import of military goods

Category	Number of licences	Countries of origin of goods	Value of licences (EUR)	Actual import (EUR)
ML1	3	IL, DE	6,266	367
ML2	1	US	3,172,581	3,172,581
ML3	1	US	136,000	136,000
ML4	1	FI	4,200	4,200
ML5	2	US	360,386	360,386
ML6	1	DE	1,700	1,700
ML7	3	US, SE	16,783	16,783
ML10	26	LV, CZ, CA, FI, BG, CH, DE, SK, FR, LT, BE, NL, UA	904,268	62,000
ML11	4	US, CA	334,249	333,481
ML13	16	AT, NO, CN,	658,295	407,400

		PL, HK, UK, PL, AT, FI		
ML14	3	NO, FR, GE	180,987	180,987
ML15	7	US, CH, LV, DE	639,196	639,196
ML17	1	US	202,200	202,200
EST2	5	US, DE, FI, US	249,447	247,445
Total	74		6,866,558	5,764,726

Transit of military goods

Category	Number of licences	Countries of origin	Country of destination	Value of licences (EUR)	Actual transit (EUR)
ML6	1	US	AF	304,615	304,615
ML10	4	RU, UA, EE	IN, VN, ID	572,756	
ML11	1	NO	LT	100,00	
Total	6			977,371	304,615

Export of dual-use goods

Category	Number of licences	Country of destination	Value of licences (EUR)	Actual export (EUR)
1A004	1	RU	15,000	
1C350	8	SA, BY, RU	2,124,664	174,620
2B350	2	RU	792	809
3A001	Global licence	Global licence	145,000,000	
3C001	2	RU, UA	326,923	
5A001	Global licence	Global licence	40,000,000	
5A002	1+1 global licence	Global licence	22,000,000,000	65,203,612
5B002	Global licence	Global licence	3,000,000	
5D002	Global licence	Global licence	5,000,000	
6A003	6	DO, CW	192,234,950	788,255
Total	21		22,387,702,329	66,167,296

Note. The actual value of transfers under the licences issued in 2012 has been calculated based on reports received from the license holders as of 31 January 2013. If no transfers were made in 2012, the actual transfer value has been left blank. The value of goods exported for the purpose of demonstration is showed as "0".