

## **ACTIVITY REPORT OF STRATEGIC GOODS COMMISSION 2014**

The Strategic Goods Commission is a licensing and supervisory commission formed within the Ministry of Foreign Affairs for ensuring a strategic goods control system and discussing issues related to strategic goods. The commission consists of the representatives of the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of Economic Affairs and Communications, the Security Police, the Police and Border Guard Board, and the Tax and Customs Board.

According to the rules of procedure, the commission submits annually to the Government of the Republic an activity report that gives an overview of international events and developments in the area of export control and control of strategic goods and measures to enhance state controls. Statistical data about the activities of the commission is added to the activity report.

### **I. Overview of international events and developments in export control**

The purpose of international export control is to inspect cross-border deliveries of military and dual-use goods and possible armament procurements causing instability, to ensure peace and strengthen international and national security. Export control has proven its importance over decades, above all in combating the proliferation of terrorism and weapons of mass destruction in the world. These goals can be achieved only in multilateral cooperation with other countries, entrepreneurs and international organisations both, globally as well as within the European Union.

The work of the Strategic Goods Commission in 2014 has been most definitely influenced by sanctions established by the European Union against Russia for the harmful or jeopardising activity to the territorial integrity, sovereignty and independence of the Ukraine. The sanctions restrict the export of military as well as dual-use goods to Russia and import from Russia and the transit related to Russia. When so far the subjects to international sanctions have been quite remote countries for Estonia, whose trade relations with Estonia are weak, then in case of Russia we are talking about an immediate neighbour. The sanctions established against Russia have clearly a significant impact on the Estonian economy and especially on trade and logistics companies.

Estonia is a member of three international export control regimes - the Wassenaar Arrangement (control of arms and dual-use goods and technologies), Nuclear Suppliers Group (control of nuclear materials) and the Australian Group (control over proliferation of chemical and biological weapons). In 2014, Estonia enhanced the activity to join the Missile Technology Control Regime (MTCR), by upgrading its membership application submitted in 2003, however no progress was achieved in regard the membership at the MTCR plenary meeting held in Oslo in autumn 2014.

The year 2014 was very important for Estonia within the Wassenaar Arrangement, since during the plenary meeting of the organisation held in December 2013, Estonia took over the tasks of presidency of the plenary meeting for one calendar year. Accordingly, Estonia chaired also the plenary meeting in December 2014. The activity was led by the Ministry of Foreign Affairs, including the Estonian embassy in Vienna. Discussions on promoting new technologies, information exchange and preventing excessive accumulation of conventional weapons, instructions on the control of end-use, transit and reloading and intermediation continued. Following a recommendation of the technical expert group, the control lists of relevant goods and technologies were specified. Discussions on the possibilities of involving new members continued as well. New members were still not admitted in 2014.

The most important keyword in the Australian Group was the use of chemical weapon in Syria. The accession declarations of a new member of the Organisation for the Prohibition of Chemical Weapons (OPCW) were topical and accordingly dominated throughout the year. The Australian Group discussed the benefits of the experience, in order to protect the countries and persons better against the use of a chemical weapon in the future. The conventional activity of the Australian Group covers discussions over the development trends in the proliferation of weapons of mass destruction, exchange of information on countries of destination, enforcement issues of control measures and updating of the lists of goods. Also, the best practice is shared with the member countries of export control, the future and accession of possible new members of the Australian Group are discussed. The year 2015 is the anniversary year of the Australian Group, celebrating its 30 years of activity. In 2015, it will also be 100 years since the first use of chemical weapons.

The plenary meeting of the Nuclear Suppliers Group was held in Argentina, Buenos Aires. The 2013 meeting saw a lot of changes in the working documents and control lists of the organisation; accordingly, 2014 was to a great extent the year of their implementation. During the plenary meeting, the matters discussed included the activity concerning nuclear programmes jeopardising international security, information was exchanged on the proliferation of armaments and enforcement cases of control measures and the technical group discussed changes in the lists of goods.

Besides the obligations arising from the regimes, there is also efficient cooperation within the European Union. During the year, the representatives of the Strategic Goods Commission actively participated in all meetings and exchange of information of the European Union's working groups for export controls on conventional arms (COARM) and Arms Trade Treaty (ATT) and the working group for export control of dual-use goods (WPDUG). The representatives contributed also to the activity of the working groups involved in the implementation of the Directive 2009/43/EC of the European Union (simplifying terms and conditions of transfers of defence-related products within the Community), Regulation No 258/2012 (improving the efficiency of control over export, import and transit measures for firearms, their parts and components and ammunition) and Regulation No 428/2009.

The COARM working party focused in 2014 mainly on the exchange of information concerning the export of military goods to sensitive countries of destination, supplementing the lists of goods, creating a database on the refusals of electronic transactions, on the impact arising from Regulation 258/2012 in implementing the export control of firearms and reviewing the common EU position on arms export 2008/944/CFSP (concerns the principles used in the export control of military goods and criteria on refusing the transactions). The latter above all within the context of impacts, arising from entry into force and implementation of the ATT.

In WPDUG, the revision of export control policy in the area of dual-use goods, which started in 2011 with the consultations on the Green Paper, continued. The European Commission commenced the drafting of amendments, the first step of which shall be impact assessment. The purpose of amendments is to improve the efficiency of the European control policy on dual-use goods. The Coordination Group, established on the basis of Article 23 of the Regulation of the European Union 428/2009 on dual-use goods focused mainly on the issues of implementation and harmonisation of the regulation.

In 2014, also the European Union Regulation No 1236/2005 (concerning trade in certain goods

which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment) was discussed. At the end of 2013, the European Commission presented the amendments to the regulation, the purpose of which is to improve the efficiency of the EU control over such goods. Discussions on the amendments continued throughout the year and are still ongoing in 2015.

The Court of Auditors, stipulated in the regulation, has to be modernised, since in the changing world the export control must function together with the modern trading opportunities.

The European Commission and the experts of member states continued in 2014 the discussions on how to more efficiently implement the procedure of simplifying transfers of defence-related products within the Community established with the Directive 2009/43/EC in 2012. The member states have implemented the directive at a slower pace than initially expected by the Commission. It has also been detected that the member states implement the directive in very different ways and this prevents the harmonising and integrating impact of the directive on the European Union defence industry. The European Commission and the member states, including Estonia, are actively contributing to the promotion of the instrument, to ensure that the entrepreneurs use more the simplified conditions stipulated in the directive.

Within regional cooperation, the export control experts of Nordic-Baltic countries met twice in 2014: in Oslo and Stockholm. The purpose of the meetings was to exchange information on the development trends of export control regimes, changes in national legislation and on solving the topical issues. The Nordic-Baltic cooperation forum has proven to be an excellent possibility to strengthen regional cooperation and policy in the area of export control.

Implementation of the Arms Trade Treaty (ATT), adopted and signed in 2013 by the United Nations (hereinafter the UN) continued also in 2014. On 2 April, Estonia deposited its instrument of approval on the treaty with the Secretary General of the United Nations. This ended the ratification of the treaty by Estonia. Globally the treaty entered into force on 24 December 2014 and now preparations will follow for the first conference of participating countries (to be held in August 2015 in the Mexico City, the capital of Mexico). Entry into force of the ATT did not bring along any material changes to the organisation of export control, as Estonia was using the principles set out in the treaty also before when making the decisions.

The Estonian experts contributed in 2014 also to outreach aimed at third countries, participating actively in several international export control conferences. In autumn 2014, an export control delegation from Georgia visited Estonia within the US EXBS programme. The purpose of the visit was to learn from Estonia's experience in controlling strategic goods. The visit was extremely successful; similar visits are planned also into the following years.

## **II. Changes in national legislation**

No major changes were introduced in 2014 to the legislation, regulating the area. The lists of military goods and defence-related products and dual-use products were updated, considering the changes agreed in the lists of goods within the international export control regimes and the updated list of the European Union on military goods.

The proposals made by the Committee in previous years to amend the Penal Code were considered in the wording of Penal Code that entered into force on 1 January 2015. As a result of the changes,

the offences related to strategic goods are now separately discussed in the law. This is an important progress in terms of legal clarity and prevention of the offence related to strategic goods.

### **III. Activity of the Strategic Goods Commission**

#### **1. Increasing awareness of strategic goods in 2014**

The Strategic Goods Commission pays increased attention on raising the awareness of strategic goods in all related areas. When in 2013 the commission did not organise any seminars for the entrepreneurs, then the more were organised in 2014. So in February 2014, a seminar was held on transit control of strategic goods for the entrepreneurs of the transit and logistics sector. A seminar was held in March for all interested parties also on the implementation of control. At the same time the information on the control of strategic goods was supplemented on the commission's website and important sectoral information was forwarded by e-mail to the customers of the commission.

In 2014, the officials of the Tax and Customs Board (ETCB) visited one company engaged in strategic goods. The purpose of the visits is to introduce the legislation and organisation of the customs work in checking the strategic goods in order to raise the awareness and compliance of companies. During the period of 2007–2014, 47 companies engaged in strategic goods have been visited for preventive purpose. The visits will continue in 2015.

In 2014, two training sessions on strategic goods were organised for the Estonian officials under the leadership of ETCB as a joint project of the Ministry of Foreign Affairs, the Estonian Internal Security Service (KAPO), Technical Regulatory Authority, Ministry of the Environment and Rescue Board on the basis of the United States Department of Energy training materials on the identification of goods (so-called CIT training). The officials of the ETCB, Rescue Board, KAPO, Ministry of Foreign Affairs and the Police and Border Guard Board attended the training. The purpose of training was to increase the awareness of the officials in the area of strategic goods and train them to be familiar with the strategic goods. Joint trainings will continue also in 2015.

The ETCB will proceed with the analysis of the data on strategic goods export, import and transit and of the trade between Estonia and the embargo states, to be conducted twice a year.

#### **2. Measures for improving the efficiency of strategic goods control planned for 2015**

The Strategic Goods Commission will continue the activities, which improve the control of strategic goods in Estonia and the work organisation of the Strategic Goods Commission. A number of these, such as organising information days and training, and updating the list of goods, are key elements of the activity each year.

The main activities planned for 2015 are the following:

- implementation of Stratlink, a new electronic environment for processing special authorisations, and user training;
- improvement of efficiency of the implementation measures of international sanctions;
- supplementing sectoral legislation, including updating the lists of strategic goods;
- participation in the working groups of international export control regimes and EU sectoral working groups and regional cooperation formats; making proposals for amending the lists of regimes, if necessary;

- assisting in the development of demilitarisation requirements;
- organising information days and seminars for entrepreneurs, scientists and experts engaged in strategic goods, in order to raise the overall awareness and responsibility, introduce legislation and international instructions and promote cooperation;
- contributing to the follow-up inter-agency training under the leadership of ETCB, aimed at promoting the cooperation between agencies in introducing the strategic goods and improving the efficiency of control;
- updating the commission's website with information concerning the area of strategic goods and practical information on arms embargos and the EU restrictive measures in this field;
- in case of interest of media, publishing articles to introduce the area and sharing information with the public;
- assisting in organising international seminars on strategic goods control, held in Estonia;
- receiving the delegations of licensing authorities of other countries with a purpose of sharing experience.

The departments and supervision authorities belonging to the commission will continue the cooperation with the partner services of other countries, to prevent illegal proliferation of conventional armament and weapons of mass destruction and the technology, materials and equipment required for their manufacturing. To enhance cooperation between countries, international trainings and seminars will be attended. In addition to continuous in-service training, further knowledge is obtained also from expert meetings of the export control organisations and international everyday work. E.g. in 2014, the ETCB had a cooperation seminar with customs departments of Latvia and Lithuania, where the possible customs cooperation and exchange of information on strategic goods were discussed.

### **3. Statistics of activity of the Strategic Goods Commission in 2014**

#### **1) Number of issued licences and documents on the supervision of end-use and provided consultations**

In 2014, the Strategic Goods Commission issued special authorisations and supervision documents of end-use related to strategic goods as follows:

- export licences for military goods – 55
- import licences for military goods – 82
- transit licences for military goods – 9
- licences for providing services in connection with military goods – 0
- export licences for dual-use goods – 42
- export licences for mediating military goods – 1
- supervision certificates of end-use – 1
- international import certificates – 2

No licences of transit and brokering of dual-use goods were processed.

Altogether, 196 documents, including 192 special authorisations, were issued in 2014. Based on special authorisations of strategic goods, the total value of goods exported, imported and transported through Estonia exceeded 103 million euros, being 15 million euros more than in 2013, when the

total value of goods made 88.2 million euros.

When analysing the volume and nature of special authorisations and the flow of goods taken across the border it may be concluded that the total number of licences did not change notably compared to 2013. From the other side, even while the number of licences of a certain chapter (e.g. export of military goods) has decreased, the monetary value of all goods delivered has increased for all chapters. For transactions related to military and dual-use goods also the impact of sanctions imposed by the European Union *vis a vis* Russia, can be felt. Likewise to previous years, the prevailing chapter in the total export volume of 2014 was the category of dual-use goods (5A002, telecommunications equipment) and the largest part here belonged to one exporter. At the same time the statistics shows that the capability of Estonian defence industry and geographical range of markets is nevertheless growing slowly. However decrease in the number of supervision and import certificates of end-use shows increased reliability of Estonia as the country of destination of goods.

The officials of the ETCB contacted the strategic goods experts of the ETCB 442 times, to get an expert opinion on whether or not the goods need a licence from the Strategic Goods Commission. In 442 cases the shipping documents were further inspected and physical inspection carried out to determine the strategic nature of goods. The secretariat of the Strategic Goods Commission provided 250 consultations to persons and companies on the licensing of strategic goods and on determining the status of belonging into the list of goods.

In 2014, the Strategic Goods Commission processed the licences also with the help of a special inter-agency processing programme Tracker, which was last updated in 2012. At the same time the work with the new processing programme Stratlink, developed in Estonia, continued, in order to implement it in 2015.

In addition to daily communication, 25 virtual (via electronic information channels) ordinary and extraordinary commission meetings took place in 2014.

## **2) Number of entrepreneurs who have registered themselves as intermediaries of military goods, certified entrepreneurs and users of general authorisation**

In 2014, four companies were registered for the first time or re-registered as intermediaries of military goods: Baltic Armaments OÜ, Citysec AS, Milmets OÜ and Firestudio OÜ. As of 31 December, there were nine entrepreneurs holding licences for mediating military goods. Altogether, the number of persons entered in the list of intermediaries of military goods increased by two, compared to 2013.

As of 31 December 2014, there were three registered users of general authorisation, no changes were made in the registrations. In 2014, no certification applications were submitted to the commission by companies, accordingly no entrepreneurs were certified.

## **3) Special authorisations issued under the EU regulation No 1236/2005 (concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment)**

In 2014, the Strategic Goods Commission did not receive any applications for the cross-border

movement of strategic goods checked under the Regulation 1236/2005 and consequently, no special authorisations were issued.

#### **4) Refused registrations, special authorisations or supervision document of end-use**

In 2014, the Strategic Goods Commission refused to issue a special authorisation in 11 cases. Most of the refusals were related to the implementation of sanctions, imposed against the Russian Federation by the European Union. The commission banned the export of small arms and light weapons (SALW), military aircraft components and spare parts, metal-working and other high-tech devices from Estonia and import of anti-aircraft cannons into Estonia. In 2014, the Commission did not refuse any registrations or issue of supervision document of end-use.

#### **5) Violations of law and international sanctions related to strategic goods and data on the supervision of end-use and follow-up inspection of licence use**

The offences related to strategic goods transfers are processed by ETCB and KAPO.

In 2014, the ETCB commenced a total of 143 criminal proceedings in the area of strategic goods transfers, which were connected with the movement of weapons prohibited for civilian purposes or goods without a licence, failure to submit a notice within the European Union or submission of invalid licences to the ETCB during customs clearance.

The objects of violation included motor vehicles belonging into category ML6, weapons in category ML1, spare parts of military aircraft, night vision devices, body armour and electric shock weapons and telescope truncheons as weapons prohibited for civilian purposes, the border crossing of which is subject to the Strategic Goods Act and other relevant legislation.

In June 2014, a new task was added to the responsibilities of ETCB to follow the sanctions imposed against the Crimea, for which ETCB established import ban criteria and as of 31 July 2014, control criteria on the export of oil and gas industry equipment in connection with the restrictions imposed *vis a vis* Russia. Starting from June 2014 up to now, the ETCB has inspected 527 possible violations of import and export of goods subject to embargo.

KAPO commenced two criminal proceedings in 2014 related to possible offence related to strategic goods based on the elements of Penal Code, § 392.

1) On 16 July 2014, criminal proceedings in the matter No 14913000038 were commenced for the reason that on 10 May 2014 a Russian citizen smuggled a traumatic weapon Baikal MP-461 together with a spare magazine and four cartridges and a gas pistol UDAR 5-13-60 together with one gas weapon cartridge from Russia to Estonia over the Koidula border point. The special authorisation for importing the said weapons and ammunition into Estonia was missing. According to Weapons Act § 59 (1) and (3), such weapons and ammunition may be imported and exported only under an individual special authorisation, the issue of which shall be decided by the PPA based on the application of the person.

According to the Code of Criminal Procedure (KrMS) § 219 (2), the suspension of detention of a suspect was substituted with a payment into the public revenues and based on KrMS § 200 and § 199 (2) the criminal proceedings were ended against the person on 17 July 2014. This decision was based on the considerations that the person, who tried to bring the said two weapons and five

cartridges from Russia to Estonia without a special authorisation had no permanent or temporary residence in Estonia and this was a criminal offence in the second degree, with which damage was not caused and the punishment of which starts with pecuniary punishment. It was also considered that the person who acted against the law agreed to make and made the payment in amount of 200 euros into public revenues covering the procedure expenses and the pecuniary punishment imposed as possible punishment.

2) On 16 April 2014, criminal proceedings were commenced in the matter No 14913000014 in connection with the information received on the Estonian citizens who were dealing with illegal smuggling of firearms and their silencers over the state border of Estonia and handling these in Estonia. The preliminary investigation was not finished in the said criminal proceedings in 2014 and will continue in 2015.

On 11 July 2014, KAPO ended the proceedings in the criminal matter No 13913000036, commenced on 4 October 2013 in accordance with KarS § 392 (1) and § 418 (1) for the reason that before 4 October 2013 a permanent resident of Estonia with undefined citizenship was allowed to unlawfully export firearms from Estonia to Russia and unlawfully handle the firearms.

The reason of the criminal proceedings was the information that when examining the passenger car used by the specified person near the Kunitšnaja Gora border point before 4 October 2013, 26 TT-type pistols were found hidden in the car. According to preliminary information the person intended to smuggle these from Russia to Estonia without holding a special authorisation required for that.

In course of the criminal proceedings it appeared that the detected goods were moving from Estonia to Russia 3 October 2013 and not *vice versa*. It was also established that the items hidden in the car and transported from Estonia to Russia were not firearms, but firearms that were deactivated. All in all, the person had hidden 26 gun-like items in the car at his disposal: seven TT-type pistols, seven revolvers, five submachine guns Skorpion (model 61) of Czech origin, one pistol P-08, one pistol Beretta, one pistol APS, two pistols FEG and two pistols Kareen; all of them with damaged essential components of firearms. Since the 26 items, smuggled over the border were actually firearms turned into an unserviceable state, the proceedings were ended on 11 July 2014 based on KrMS § 199, due to lack of grounds for criminal proceedings.

From the statements of the person and the decision of the Pechory district court, Pskov oblast, Russian Federation, from 14 May 2014 in criminal matter No 1-27/2014 it appears that the frames of receivers of five TT-type pistols and five submachine guns (model 61) of deactivated firearms, that were confiscated from the person's vehicle during the inspection, were fit for use. The person was punished pursuant to the court decision in Russia for smuggling these frames of receivers being essential components of firearms for the purposes of the law of the Russian Federation. The court of the Russian Federation did not detect fitness for use of the remaining weapons and/or essential components of firearms found and accordingly, transfer of these over the border was not imputed to him.

According to Estonian Weapons Act § 21 (1) the essential components of a firearm are the barrel, breech block, chamber and revolver cylinder, and adapter and the said essential components of the 26 abovementioned firearms in an unserviceable state were duly damaged.



## Transfer of strategic goods in 2014

### Export of military goods

Category	Number of licences	Countries of destination	Value of licences, EUR	Actual export, EUR
ML1	16	RU, KZ, ZA, UA, GE, NO	1221330	563694
ML3	1	IQ	n/a	n/a
ML5	2	LT	342589	342589
ML6	1	FR	n/a	n/a
ML10	18	US, FR, CZ, SK, ID, GE, ID, UA, UAE, PL, NG, BG, AO, MK	1417501	618300
ML14	9	PL, TR, FR, SA, CL	375589	141891
ML15	5	CH, FI, PL, SK, DK	382377	
ML21	2	DE	479208	
<b>Total</b>			<b>4218595</b>	<b>1666475</b>

### Import of military goods

Category	Number of licences	Country of origin	Value of licences, EUR	Actual import EUR
ML1	10	DE, CA, US, UK, IL, FI, RU, NO	190381	14227
ML2	3	US, UA, PL	664053.99	32070
ML3	1	GB	700	700
ML4	3	KR, FR	399060	399000
ML5	2	UA, US	183848	183848
ML6	1	EE	n/a	n/a
ML7	1	GB	79772	
ML8	2	FI, SE	30345	17850
ML9	1	GB	2	
ML10	21	CZ, CH, RU, US, GB	2076357	308127
ML11	2	US, CA	907351	907351
ML13	19	FI, GB, US, DE, KR	363303	224439
ML14	2	EE	n/a	n/a

ML15	8	US, FR, GR, BY	2038200	646010
ML17	1	US	41445	41445
EST2	8	US, DE, GB, FI	105865	101038
<b>Total</b>	<b>81</b>		<b>7070622</b>	<b>2876110</b>

Note 1: The actual value of transfer is calculated based on the reports as of 01.04.2015, obtained from the users of licences, issued in 2014. If there was no transfer in 2014, the value of actual transfer has been left empty. The value of goods transferred for the purpose of demonstration or as donation shows "n/a".

Note 2: The import transactions of military goods, where the country of origin shows EE, mean returning of military goods of Estonian origin from foreign trade fairs of defence industry.

### Transit of military goods

Category	Number of licences	Country of consignment	Country of destination	Value of licences, EUR	Actual transit, EUR
EST2	3	US, DE	LV, LT, SE	268473	25847
ML1	1	GB	KZ	19800	
ML5	1	US	LT	115725	
ML6	1	SE	RU	38000	
ML10	3	RU, US, CA	HU, UA	144418	
<b>Total</b>				<b>586417</b>	<b>25847</b>

### Provision of services related to military goods

Category	Number of licences	Country of consignment	Country of destination	Value of licences, EUR	Actually provided services, EUR
ML3	1	UA	TM	144137	0
<b>Total</b>				<b>144737</b>	<b>0</b>

Note: The actual value of transfer is calculated based on the reports as of 01.04.2015, obtained from the users of licences, issued in 2014. If there was no transfer in 2014, the value of actual transfer has been left empty.

## Export of dual-use goods

Category	Number of licences	Countries of destination	Value of licences, EUR	Actual export, EUR
1A004	1	RU	999100	0
1A007	2	US, AU	96295.21	0
1C234	1	CA	38780.36	0
1C350	6	RU, BY, KZ	1284700	109867
2B350	2	RU	1135284	0
3A001	global licence	MY, TH, AO, ID, BR, MX, PR, PA, HT, BA, ME, MK, UA, BY, TR, JO, PS, TN, DZ, GH, BW, BI, CG, GN, GW, LS, MG, MW, MU, MZ, NA, SN, SZ, TZ, UG, ZM, SL, BF, BB, BJ, BO, BQ, BT, CL, CO, CW, DO, GD, HN, MD, NI, JM, PG, KR, LK, SV, TD, VE	n/a	98807822.61
3A002	global licence			
5A001	global licence			
5A002	global + general licence			
5B002	global + general licence			
5B001	global + general licence			
5D002	global licence			
6A001	1	RU	570000	0
6A205	2	BY, RU	88335	88335
6A003	19+1 general license	RU, US	150700	69300
9A012	1	CA	3094	3094
<b>Total</b>				<b>99 078 420</b>

*Note: The actual value of transfer is calculated based on the reports as of 01.04.2015, obtained from the users of licences, issued in 2014. If there was no transportation in 2014, the place of the actual value of transportation is left blank. The value of goods transferred for the purpose of demonstration shows "n/a".*