



**NATIONAL AGENCY FOR THE CONTROL OF STRATEGIC  
EXPORTS AND OF PROHIBITION OF CHEMICAL WEAPONS**



*"Marching artillery" - Nicolae Grigorescu*

**REPORT**

**ON ARMS EXPORT CONTROL 2000-2001**

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*Motto:*

*"This Report is dedicated to all people that had a positive contribution to the evolution of export control in Romania."*

## FORWARD

*The present Report on Arms Export Control 2000-2001 was drafted and published by the National Agency for the Control of Strategic Exports and of Prohibition of Chemical Weapons - ANCESIAC, acting as national authority in the field of export control in Romania.*

*The Report was published at the mid of 2002 and it was made available to the public during the National Conference "10 Years of Export Control in Romania" held in September 2002. Being the first Report published in the field of export control, the Romanian edition was also made available at [www.ancesiac.ro](http://www.ancesiac.ro).*

*So far, according to our knowledge, this Report seems to be the very first published by an associated country to the European Union, addressing export control issues such as policy, regulation, licensing procedures, facts and figures in Romanian arms exports during 2000 - 2001 and main trends of future developments of the export control national system.*

*Building the blocks of this Report, we faced some challenges such as the genuine "confrontation" between the necessity of transparency and the conservative approach of some senior Romanian experts, "founding members" of export control community in Romania. In the end, I had to choose a balanced vision between political opportunity and economic effort which may be easy to be understood by anyone. After years of using some detailed annual reports published by UK, Germany, Sweden, France and the Netherlands, for screening during licensing procedures, ANCESIAC core of experts understood the tremendous importance of achieving the right standard of transparency by highest level of probity, ethical behaviour and accountability.*

*In 2001, Romania sunk to the lowest value of arms exports during last 12 years due to the fundamental changes of the international security environment and, as a consequence, fall of traditional markets.*

*The Romanian arms export control system is based on the national security strategy, the anti-terrorism strategy and the principle of cooperation within non-proliferation. It is also fully compliant with the United Nations, European Union and OSCE embargoes on arms trade and with other relevant restrictive regimes.*

*The Report on Arms Export Control 2000-2001 consists of 6 chapters and 2 annexes. Chapter I emphasizes the importance of export control for international security and non-proliferation, both acting as an instrument of national foreign policies and domestic cooperation. Approached as a commercial dimension of international security, the control of arms exports is a comprehensive tool for developing a responsible export policy by appropriate and efficient mechanisms and procedures. After September 11, 2001, export control was in-depth related to the global fight against terrorism.*

*Chapter II describes the international framework of arms export control cooperation. One of the main aims of this chapter is to summarize the main commitments assumed by Romania since 1990 in the field of export control.*

*The chapter is built on 4 levels of international cooperation: multilateral export control cooperation within the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, regional cooperation (in particular EU Code of Conduct on Arms Exports and OSCE Document on SALW), universal level of cooperation and transparency in arms control (UN Register of Conventional Arms, initiatives on SALW) and the limits of arms trade (embargoes regimes). On SALW issue, the report describes, in a nutshell, the various mechanisms of international cooperation within UN, OSCE, NATO and other regional initiatives.*

*The Report also addresses, for the first time, some hot issues for Romanian journalists such as the restrictions to arms trade and it describes Romanian stringent policy of compliance with the most advanced multilateral standards in the field.*

*Chapter III is focused on the establishment and the evolution of the national export control system between 1992 - 2001. On the merits, the advancing of the Romanian export control system was a joint effort made by several key institutions: the national authority - ANCEFAE, which became also licensing authority at the end of 1999, Ministry of Foreign Affairs, Ministry of National Defence, General Customs Directorate, Ministry of Interior and last, but not least, all Intelligence Services. In this respect, I have to underline two of the genuine characteristics of the Romanian export control system: a unique national authority responsible for all essential blocks in export control building (policy, regulation, licensing, enforcement and representation) covering both military and dual-use pillars and the formal involvement of Intelligence Services in decision making process of approving any license application.*

*One of the key-tool during the post-delivery phase of licensing arms exports is the obligation of any holder of individual arms export license to submit to the Agency the Delivery Control Certificate within 4 months from delivery. This is not a due diligence obligation. I believe that keeping this as a "must" for the Romanian companies remains a useful legal mechanism for keeping our country apart from international scandals and bad image as public consequences following diversion of certain arms transfers. Supported by substantial fines for infringement, the post-delivery control certificate specially tailors Romanian export control system by focusing it towards the control of end-use and end-user. Complementary, following an Euro-Atlantic lesson learned, Romania drove the export control policy and mechanisms towards the same end-user via a consolidated relationship with Industry (for instance by implementing III and catch-all clause).*

*According to Romanian experience, post-delivery control remains a key stage in building confidence and trust among national licensing authorities and within domestic cooperation with licenses holders.*

*I attached a great value to the first listing of the package of criteria used for screening applications and decision making process. National legislation of Romania in the field of arms export control is fully consistent with the guidelines and the control lists of the major export control regimes: Wassenaar Arrangement, Zangger Committee, Nuclear Suppliers Group, Australia Group, Missile Technology Control Regime. So far, Romania is only applicant country to the last one.*

*Chapter IV describes the most consistent Romanian experience in the field of export control starting with January 2001. The new administrative formula - under the Ministry of Foreign Affairs umbrella - and the technical developments of all blocks of export control system drew a national policy named *Government Outreach to Industry*. Acting as a separate block of the national export control building, *Government Outreach to Industry* is the driven force for the present stage of development in Romania and one of the keys for increasing our contribution to international cooperation and awareness.*

*Government Outreach to Industry is already a living part of the export control in Romania as a key-tool for the Romanian "end-users" of the export control rules and regulations. The concrete actions and endeavors were conducted as a coherent program "Transparency, Cooperation and Communication" for our partners from industry. The beginning of ANCEITAC program is connected with the 1<sup>st</sup> Export Control Conference held in Bucharest during 26-27 of April 2001. The goal of the program is to maintain a stringent and further development of Romania's responsible behaviour in the field of non-proliferation and export control. This political goal is implemented by a puzzle of complementary aims such as: strengthening the export control compliance (covering all stages: to know, to understand, to respect, to observe), educating and training the export*



*control teams within companies, improving the effectiveness of export control standards and "the aim of all aims" creating and maintaining an honest image of our country and its companies.*

*Since 2001, all relevant blocks in export control are in a process of assessment and stringent consideration in order to fasten the adaptation to the most advanced multilateral standards in the field.*

*One of the most important and new block of the Romanian model in export control is the enforcement pillar strengthened by a new culture of compliance with a strong effective preventive dimension.*

*By far, the most read part of the Report is chapter V - "Romanian Arms Exports: 2000-2001 Facts and Figures". The chapter follows the stages of licensing process starting with pre-licensing procedure of authorization up to the main destinations for Romanian arms exports. The figures inside the Report speak for themselves about the massive decrease of Romanian exports of military items after 1990. There is a strong belief inside Romanian current administration that the minimum historical value for Romanian military export in 2001 was the price paid for conducting a stringent policy of not involving in transfers with high risk of diversion.*

*Sometimes we speak about secondary costs of Romania's integration to NATO and EU, but these are due to the strong political determination of Romanian Government. "We have always observed embargoes and placed Romania's security and image interests above economic interests. That compliance, however, has a price. It is even more difficult to find orders without breaking arms embargoes", stated my colleague, General (ret.) Decebal Ilina, state secretary for defence industry.*

*From the same political perspective, the efforts made by Romanian administration and companies were also encouraged by the 2001 and 2002 Regular Reports on Romanian's progress towards accession issued by the Commission of the European*

*Communities. For instance, chapter 27 of the 2001 Report provides that "in the field of arms exports control, the National Agency for the Control of Strategic Exports and of Prohibition of Chemical Weapons (ANCEPAC) was established as a body within the Ministry of Foreign Affairs. This measure is aimed at improving the implementation of existing export controls. (...) Romania has demonstrated a good track record in the Common Foreign and Security Policy and there have been no problems regarding Romania's alignment with the CFSP acquis. Romania has subscribed to the EU Code of Conduct on Arms Exports and continues to respect and implement those aspects of the Code that are applicable to candidate countries".*

*One year later, chapter 27 of the Regular Report provides that "over the last year Romania has confirmed its good track record in Common Foreign and Security Policy and has continued to align its policy with that of the European Union. (...) Romania has continued to align its positions with EU statements and declarations and, when invited to do so, has associated itself with the Union's common positions and joint actions. Romania has continued to comply with international sanctions and restrictive measures imposed by the UN and the EU. (...) Romania has subscribed to the content and principles contained in the EU Code of Conduct on Arms Exports, and continues to respect and implement the Code's criteria."*

*As a general approach, Romania's Report follows a consistent lesson learned from effective export control systems in Western Europe and North America.*

*From a complementary perspective, during the National Conference "10 Years of Export Control in Romania", September 2002, USA high rank officials described the Romanian export control system. "Over the two and a half years of USA - Romania cooperation in the field of export control I have witnessed the development of a very effective regime in Romania, marked by strong political will, licensing expertise and growing enforcement capabilities... I think it can serve as a model for developing*

*institutions in some of Romania's neighbours in the Western Balkans", appreciated several high rank officials from Bureau of Industry and Security (U.S. Department of Commerce) and from U.S. Department of State. In our understanding, the publication of this report is a fruit of the principles stipulated within the EU Code of Conduct on Arms Exports adopted by the Council of EU in June 1998 and applied by Romania since July 1998.*

*Despite the damage to the defence industry, Romania is going forward with further controls of its exports.*

*Chapter VI of the Report underlines some guidelines for future developments in Romanian export control system, most important of them being: enforcing the enforcement of export control, active contribution to international initiatives in the field of preventing and fighting arms illicit trafficking, assistance for creating or updating export control regimes in countries from Eastern Europe, implementing new software within relevant companies, proliferation of best effective practices to companies and programs of awareness.*

*The way ahead is to achieve an advanced national export control system, effective and efficient conducted by the government for a responsible industry. In this framework, I hope to strengthen ANCEIAC contributions to institutionalize the export control inside a corporate culture and to provide appropriate channels of communication for the companies.*

*The first annex to the Report is one of the most consistent political document in the field of export control: the EU Code of Conduct on Arms Exports (the principles and the criteria) and the second annex contains the national list of armaments, ammunition and other military goods for end-use control.*

*It is not just a coincidence the fact that the Report on Arms Export Control 2000-2001 was made available during the 10<sup>th</sup> anniversary of export control system in Romania. It was my intention to enhance the relationship between responsible export*

*policy and the image of Romania. Summarizing our experience in the field of export control, I strongly believe that there is a direct connection between the effective enforcement of export control, bona fide and ethical behaviour of all players involved.*

*One last word about all my colleagues that had contributed to this Report and especially a word of thanks for General (ret.) Toader Nastasa who was encharged with the narrative part of the document. This Report is dedicated to all people that had a positive contribution to the evolution of export control in Romania.*

*In the end, I suggest to forward all your compliments towards ANCESTAC team and any critics regarding this Report towards me. On the ground of all feedbacks, I will certainly know how to improve in due time the next Romanian Report on Arms Export Control.*

*Nineta Barbulescu*

*President of ANCESTAC*

*Bucharest, June 22, 2003*

## **Chapter 1. Introduction**

Since 1990, the control of arms<sup>1</sup> export has become an important part of Romanian foreign policy. The end of the Cold War and the new favorable international conditions have allowed Romania to contribute to regional, as well as international, security and stability.

With the goal of preventing the proliferation of goods and technologies that can contribute to the development, production and use of weapons of mass destruction, the control of arms export represents, at the level of the international community, the commercial dimension of international security.

In this field, any development is strongly influenced by globalization trends in the world economy, including those referring to the exports of arms and dual-use goods (civil and military).

The terrorist attacks on the United States on September 11, 2001 brought to the attention of the international community the need for strengthening export control and for close international cooperation in this area.

Romania, by observing universal democratic principles and values in order to meet its obligations and responsibilities arising from the international treaties and arrangements it has adhered to, instituted controls in 1992 on exports and imports of strategic goods (arms and dual-use goods and technologies). The change in end-use of these categories of goods could contribute to substantial increases in the military potential of rogue states and the proliferation of weapons. Such an outcome would lead to enhanced instability and tension at regional and international levels.

The control of exports and imports of strategic goods, an important element of the defense and national security policy, has not and will not interfere with the legitimate right of Romania to acquire means of self-defense in accordance with the Charter of the United Nations.

Given the favorable conditions created after 1990, the new legal and institutional framework facilitated to a large extent Romania's non-discriminatory access to advanced goods and technologies. This allowed for the acquisition of new technologies and the modernization of the national economy as a whole, as well as the endowment of the national defense system with highly competitive military goods and technologies. Such an outcome made the accession to the European and Euro-Atlantic economic and security structures possible for Romania.

The existence of a developed system of control of export of strategic goods and of a national authority able to efficiently manage this field represents one of the conditions for the Romanian's herence to NATO and European Union.

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<sup>1</sup> For the purpose of this report, the term "arms" includes weapons, munitions and other military products.

This Report, being the first one issued after the establishment of the control of export and import of strategic goods, presents the international and national framework for the transfer of arms and statistic data referring to Romanian exports of such goods during 2000 – 2001. It is intended to identify the trends and to elaborate the measures and the actions necessary in order to further the development of the national control system in this field.

This Report is real proof of the efforts made by Romania to promote a responsible export policy and to develop efficient control mechanisms and procedures that support the prevention and the control of destabilizing accumulations of weapons in various countries or regions of the world.

The Report reflects the new approach of the Romanian Government with regard to the relationships between government and industry and between government and society, namely that of an increased transparency and communication. Thus, Romania enhances its contribution to the process of transparency and cooperation promoted, at an international level, by the states participating in the international regimes for non-proliferation and export controls.

## **Chapter 2. International Framework of Arms Export Control**

### **2.1. Multilateral Export Control**

#### *The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies<sup>2</sup>*

The Wassenaar Arrangement (WA) on Export Control for Conventional Arms and Dual-Use Goods and Technologies was established in 1996 in order to contribute to regional and international security and stability, by promoting transparency and a greater responsibility in transfers of arms and dual-use goods and technologies.

The main goal of WA is to prevent destabilizing accumulations of such arms and sensitive dual-use goods and technologies, as well as to prevent the development, the support, and the enhancement of military capabilities, which could undermine that goal.

The WA is intended to enhance cooperation between Participating States, by coordinating their respective national control policies and, thus, to prevent the acquisition of arms and sensitive dual-use goods and technologies (civil and military) for military end-uses, if the political situation in the recipient region or the behavior of a state is or becomes a cause for serious concern for the Participating States.

This multilateral Arrangement is not directed against any state or group of states, does not hinder any bona fide civil transactions and does not interfere with the legitimate rights of the states to acquire means of self-defense in accordance with the Charter of the United Nations.

The guidelines and the control lists of arms and of dual-use goods and technologies are part of the document entitled “*Initial Elements*” adopted by the co-founding Participating States on April 3, 1996.

In accordance with this document and with the purpose of coordinating their national policies on export control and promoting the best practices in this field, the Participating States exchange information with regard to international transfers of such goods in the non-Participating States of the WA.

In order to control the risks associated with the transfers of sensitive dual-use goods and technologies, the Participating States promote both the exchange of general information and that of specific information regarding the transfers and denials. The Participating States are also encouraged to promote, on a volunteer basis, the exchange of information with regard to any matters relevant to the international community and to each Participating State.

At present, the WA has 33 Participating States<sup>3</sup> and is the only international control regime that includes most of the main arms exporters in the world. The

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<sup>2</sup> For the purpose of this Report, the term “conventional weapons” and the term “weapons” are identical.

Arrangement has an organizational structure that facilitates the exchange of information, consisting of a Plenary, the working groups and the WA Secretariat with its headquarters in Vienna. The WA working groups are:

- The General Working Group, providing the framework necessary for the exchange of general and specific information focused on the activity as a whole, contributes to the coordination of the national policies on export control;
- The Expert Group has the task of reviewing, modifying and updating the control list, on a periodical basis, taking into account the technological development of the goods under control and their strategic relevance for the scope and the goals of the WA;
- The Licensing and Enforcement Officers Meeting, in charge of identifying and coordinating the national practices for sensitive goods and technologies transfers, control and licensing;

The activity of these working groups is reflected in reports that include recommendations agreed upon by the Participating States on a consensual basis.

The measures formulated by the working groups are debated in the WA Plenary Meeting and adopted by the Participating States on a consensual basis. These measures are then included in the national export control systems.

Romania became a founding member of the WA in April 1996. The participation of Romania in the WA has a special importance both politically and economically, as it offers unlimited access to advanced goods and technologies capable of upholding the reform of the Romanian economy and of endowing the national defense system with modern warfare.

For Romania, this also involves a substantial increase in its responsibilities in what concerns the observance of the international commitments undertaken with regard to the transfers of arms and sensitive dual-use goods and technologies.

In 2000, the WA Participating States focused their attention on continuing the debates referring to:

- Reaching a consensus with regard to the control elements of the Man Portable Air Defense Systems – MANPADS;
- Extending the scope of the exchange of specific information so as to include other military goods, mainly the transfers of small arms and light weapons;
- Identifying the best practices in order to increase the efficiency of the exports control activities;

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<sup>3</sup> Argentina, Australia, Austria, Belgium, Bulgaria, Canada, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Slovakia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom and United States. Further details at [www.wassenaar.org](http://www.wassenaar.org).



- The methods for controlling the surplus of arms by collecting and destroying them or by exporting them in conditions that do not contribute to the proliferation of weapons;
- Reviewing and updating the lists that include arms and dual-use goods and technologies submitted to end-use control.

The WA Plenary Meeting of December 2000 adopted the new control lists as well as a document referring to the criteria that must be taken into account when processing and approving transfers of highly sensitive goods. This is a contribution of the Participating States to the definition and the implementation of the “extreme vigilance” concept.

The year 2001 brought to the attention of the WA Participating States new aspects of the export control that appeared at the level of the international community:

- Preventing individuals, groups and organizations involved in terrorist activities from acquiring arms and dual-use goods and technologies;
- Enhancing the exchange of general information by emphasizing the concerns regarding the global and regional views, the programs and projects that constitute a matter of concern for the international community;
- Increasing the WA contribution to the observance of the embargo of the UN Security Council mainly on transfers to UNITA (Angola) and Afghanistan;
- Extending the exchange of specific information on other sub-categories of the UN Register of Conventional Arms and developing notification procedures with regard to the denial of transfers of military products of high strategic relevance;
- Controlling the intangible transfers of technologies and the end-use oriented transfers (“catch-all”);
- Evaluating the need of exerting the control on intermediaries and brokers and identifying the best practices in this respect;
- Reviewing and updating the end-use control lists so as to reflect the technological development and the strategic relevance of the goods.

Among the measures adopted by the Plenary Meeting from December 2001, there is a specific measure referring to the amendment of the basic document of the WA, namely the *Initial Elements*, which adds a paragraph with regard to the contribution of the Participating States to the global fight against terrorism.

In 2001, the Wassenaar Arrangement Information System (WAIS) became operational. This system facilitates the electronic exchange of information between the Participating States through the agency of the WA Secretariat.

During 2000 – 2001, there were identified four major areas of concern for WA, which could enhance the efficiency of the export control: preventive control, investigation of illicit transfers, sanctions and their implementation, cooperation and sharing of information at an international level.

The events following the attacks on the United States on September 11, 2001, as well as the international insecurity that followed confront the WA with a new dimension, namely the global fight for the prevention and counter of the international terrorism. In this respect, the strengthening of multilateral cooperation represents a priority for the scope and the goals of the WA, as they were formulated in the *Initial Elements* and amended by the WA Plenary in December 2001.

The WA Participating States agreed on exchanging general information regarding the risks associated to the transfers of arms and dual-use goods and technologies and on coordinating their national policies in order to eliminate these risks.

The specific information exchange requirements involve notifications of arms transfers to non-Participating States for the categories of arms included in the UN Register of Conventional Arms twice a year. For items and technologies relevant to the scope of the Arrangement, that are included in the Munitions List, the Participating States can make notification, on a volunteer basis, of the denials of transfers.

Romania has continuously fulfilled responsibilities arising from its participation to the WA, by making notification of the arms transfers to non-Participating States, twice a year, during 2000 – 2001, and by meeting the notification deadlines of April 30 and October 30.

Within the working groups and the Plenary, Romania has supported the initiatives regarding the extension of the scope of the specific information exchange, including those on a volunteer basis, in order to include new sub-categories of arms.

## ***2.2. International Cooperation and Transparency in Arms Exports***

### ***2.2.1. UN Register of Conventional Arms***

The UN Register of Conventional Arms was established through the Resolution of the UN General Assembly no. L 46/36 from December 9, 1991, and is considered to be an important step in the international efforts for promoting collaboration and transparency in the military field.

The UN Register plays an important role in the prevention of destabilizing accumulations of arms, by requiring each UN Member State to submit an annual report on the transfers of major arms systems grouped in seven categories: battle tanks, armored combat vehicles, large caliber artillery systems, combat aircraft, attack helicopters, warships, and missiles or missile launchers.

In 2000 – the 9<sup>th</sup> year since the founding of the Register – out of the 189 UN Member States, 112 have notified information with regard to their respective exports and imports of arms belonging to the seven categories. It is estimated that they represent more than 90% of the legal global transfers covered by the Register.

Romania notified, on a yearly basis, information on transfers covered by the UN Register of Conventional Arms. Romania is supporting the efforts made by the United Nations in order to obtain the participation of all countries in the Register and, at the

same time, upholds the recommendations formulated by the Governmental Experts Group in 2000 with a view to extending the scope of this reporting instrument.

### *2.2.2. The Cooperation within the European Union. The EU Code of Conduct on Arms Exports*

The control of military equipment exports is one of the fields of cooperation between the EU Member States, as part of the Common Foreign and Security Policy (CFSP). The 15 EU Member States, together with the candidate countries, are regularly debating the issue of export control in the form of the COARM Troika (the EU Council Working Group on arms exports for candidate countries).

The main instrument used during the COARM meeting is the adoption of the best practices from the EU Member States by the national export control systems of the candidate countries.

Romania has been actively involved in the COARM meetings for the candidate countries and, during these meetings, has revealed the developments of its national export control system, mainly those that took place in 2001.

The adoption of the Code of Conduct on Arms Exports by the Council of Ministers, on June 8, 1998, represents a very important step forward in the intra-communitarian cooperation on export control policy, based on the Common Criteria for the export of military equipment agreed upon at the Luxembourg (1991) and Lisbon (1992) European Councils. The Common Criteria of this Code of Conduct are listed in Appendix 1 of this Report.

Romania, as a candidate country, adhered to the EU Code of Conduct in July 1998 and is implementing all eight criteria when processing and approving its arms export license applications.

The EU Code of Conduct includes eight criteria that have to be applied in the export licensing process; the EU Member States have the possibility of applying a more restrictive policy in this respect. In order to obtain a convergence of the export policies, the EU Member States agreed to strengthen the exchange of information in this field.

In accordance with the provisions of the EU Code of Conduct, each Member State shall notify the other Member States with regard to any denials of export licenses. Before any Member State grants a license that has been denied by another Member State for an essentially identical transaction, it shall first consult the Member State, which issued the denial. The Code also requires the Member States to submit an annual report on its implementation that should include statistics on military equipment exports. These reports are included in a consolidated COARM Report, which is submitted to the Council of Ministers and soon afterward to the European Parliament.

According to the provisions of this Code of Conduct, the EU Member States shall encourage other exporting states to adhere to the principles stipulated in the Code. In December 2000, a EU – USA Joint Action was signed with regard to the promotion of a responsible and open export control policy within the international cooperation framework.

On June 13, 2001, the EU Council of General Affairs adopted the Declaration that contains the common list of military equipment pertaining the Code of Conduct on Arms Exports as a part of the permanent process of updating the list of military goods subject to end-use control. As a result, Romania updated the national list of weapons, munitions and other military goods through Government Decision no. 844/2001.

### **2.3. Embargoes on Arms Trade**

During 2000 – 2001, the Romanian arms exports observed the embargoes and other restrictive measures imposed on the arms transfers by the Resolutions of the UN Security Council, the Decision of the Organization for Security and Cooperation in Europe, the common actions and positions of the EU Council or those resulting from a strategic partnership between Romania and other countries.

Table no. 1 illustrates the international embargoes in force during 2000 – 2001.

**Table no. 1: International Embargoes on Arms Transfers, 2000 – 2001**

<b>Country</b>	<b>Imposed on:</b>	<b>Until:</b>	<b>Legal Basis:</b>
<b>Mandatory UN Embargoes</b>			
Afghanistan (Talibans)	December 19, 2000	-	UNSC Resolution 1333
Angola (UNITA)	September 15, 1993	-	UNSC Resolution 864
Eritrea	May 17, 2000	May 16, 2001	UNSC Resolution 1298
Ethiopia	May 17, 2000	May 16, 2001	UNSC Resolution 1298
Iraq	August 6, 1990	-	UNSC Resolution 661
Liberia <sup>a</sup>	November 18, 1992 March 7, 2001	March 7, 2001	UNSC Resolution 788 and 1343
Rwanda (Rebels) <sup>b</sup>	August 16, 1995	-	UNSC Resolution 1011
Sierra Leone (Rebels) <sup>c</sup>	June 5, 1998	-	UNSC Resolution 1171
Somalia	January 23, 1992	-	UNSC Resolution 733
Federal Republic of Yugoslavia	March 31, 1998	September 10, 2001	UNSC Resolution 1160
<b>Non-Mandatory UN Embargoes</b>			
Afghanistan	October 22, 1996	December 19, 2000	UNSC Resolution 1076
Armenia	July 29, 1993		UNSC Resolution 853
Azerbaijan	July 29, 1993		UNSC Resolution 853
Eritrea	February 12, 1999	May 17, 2000 <sup>e</sup>	UNSC Resolution 1227
Ethiopia	February 12, 1999	May 17, 2000 <sup>e</sup>	UNSC Resolution 1227
Yemen	June 1, 1994		UNSC Resolution 924
<b>EU Embargoes</b>			
Afghanistan <sup>d</sup>	December 17, 1996	-	96/746/CFSP
Bosnia and	February 26, 1996	-	96/184/CFSP

Herzegovina			
China	June 27, 1989	-	Declaration of the European Council, 1989
Croatia <sup>e</sup>	February 26, 1996	October 8, 2001 <sup>x</sup>	96/184/CFSP
Congo	April 7, 1993	-	Declaration no. 33/1993
Eritrea <sup>f,g</sup>	March 15, 1999	May 31, 2001	1999/206/CFSP
Ethiopia <sup>f,g</sup>	March 15, 1999	May 31, 2001	1999/206/CFSP
Indonesia <sup>g</sup>	September 17, 1999	January 17, 2000	1999/624/CFSP
Iraq	August 4, 1990	-	Declaration no. 56/1990
Libya	January 27, 1986	-	Declaration of the EU Council of Ministers on International Terrorism and the Mediterranean Crisis
Myanmar (former Burma) <sup>f</sup>	July 29, 1991		Declaration of the Council of General Affairs
Sierra Leone <sup>c,g</sup>	December 8, 1997		98/409/CFSP
Sudan <sup>f</sup>	March 15, 1994	-	94/165/CFSP
Federal Republic of Yugoslavia <sup>g,h</sup>	February 26, 1996	October 8, 2001 <sup>x</sup>	96/184/CFSP

#### **OSCE Embargoes**

Nagorno-Karabakh	February 28, 1992	-	Declaration of the Committee of OSCE Officials
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#### **Abbreviations:**

CFSP – Common Foreign and Security Policy

UNSC Resolution – UN Security Council Resolution

<sup>a</sup> Does not apply to deliveries for the ECOWAS Monitoring Group from Liberia.

<sup>b</sup> Does not apply to deliveries for the governmental forces from Rwanda. The embargo also applies to equipment destined for neighboring countries if it is going to be used in Rwanda.

<sup>c</sup> Does not apply to deliveries for the ECOWAS Monitoring Group from Sierra Leone.

<sup>d</sup> Does not apply to deliveries based on already concluded contracts.

<sup>e</sup> The candidate countries from Central and Eastern Europe, Cyprus and the EFTA countries (Island, Liechtenstein, Norway and Switzerland), the European Economic Area declared their support to this embargo.

<sup>f</sup> Does not apply to deliveries based on already concluded contracts.

<sup>g</sup> The candidate countries from Central and Eastern Europe, Cyprus and the EFTA countries (Island, Liechtenstein, Norway and Switzerland), the European Economic Area declared their support to this embargo.

<sup>h</sup> Imposed as embargo on the territory of former Yugoslavia.

<sup>x</sup> License applications shall be processed on a case-by-case basis.

## **2.4. Export Control for Small Arms and Light Weapons**

### **2.4.1. UN Initiative on Small Arms and Light Weapons**

The General Assembly, through its Resolution no. 54/54V from December 15<sup>th</sup>, 1999 convoked the 2001 UN Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects.

The same Resolution instituted the Preparatory Committee, mandated to elaborate the recommendations for the Conference as well as the objectives, agenda, procedural rules and final document drafts, including a draft for the Action Plan for preventing, controlling and combating illicit trafficking of small arms and light weapons in all its forms.

During 2000, the Preparatory Committee met for the first time and another two meetings were set for January and March 2001.

Based on the General Assembly Resolution no. 55/415, the Conference took place at the UN headquarters in New York between July 9 – 20, 2001. The Conference adopted the *Action Plan For Preventing, Controlling And Combating Illicit Trafficking Of Small Arms And Light Weapons In All Its Forms* which aims to encourage the UN Member States to reduce proliferation of these arms and increase transparency in the field of arms export.

### **2.4.2. OSCE Document on Small Arms and Light Weapons**

On November 2000 OSCE adopted the Document on Small Arms and Light Weapons, a comprehensive and pragmatic document aimed at combating proliferation of small arms and light weapons.

As a comprehensive action plan, which involves the politic commitment of all OSCE Member States, the Document includes objectives, norms, principles and transparency measures as well as common criteria for export and export control operations (information exchanges, import, export and transit procedures, control measures for brokering activities in international arms transfers and measures for improvement of co-operation in law enforcement).

The OSCE Document includes measures concerning the manufacture, marking, record keeping of small arms and light weapons, as well as the destruction of such arms surpluses with the view of combating the illicit trafficking.

In order to allow an efficient information exchange, the Member States undertook to notify OSCE, by June 30, 2001, of information with regard to their national manufacturing and marking systems for these categories of arms, the national legislation and practice on the procedures, mechanisms, and documentation used in export control activities.

This Document is an integral part of the OSCE's wider efforts in the field of conflict prevention, crisis management and post-conflict rehabilitation.

In 2001, as OSCE chair-in-office, Romania took the necessary measures in order to initiate the notification procedure regarding the information exchange between OSCE Member States and the proper use of this information.

#### *2.4.3. The European Union and the Small Arms and Light Weapons Control*

In December 1998, the European Union adopted the Common Action for Combating the Destabilizing Accumulation and Uncontrolled Spread of Small Arms and Light Weapons as part of an extended process focused on a coherent and harmonized approach of the arms export issues.

The objectives of Common Action are:

- a) Combating and eliminating the destabilizing accumulations of small arms and light weapons;
- b) Reducing the accumulations of such arms down to levels that correspond to legitimate defense and security needs;
- c) Providing solutions for the problems caused by destabilizing accumulations.

The Common Action also includes a commitment to offer assistance to the developing countries in their efforts of controlling the arms transfers both on their national territory and outside their borders.

The Common Action represents the basis of the EU position in this field. Any initiative promoted within various international organizations or at a bilateral level must be formulated so as to uphold the principles and the measures of the Common Action.

As a candidate country, Romania adopted and observes the objectives of the EU Common Action.

#### *2.4.4. NATO and the Small Arms and Light Weapons Control*

Similar concerns with regard to the control, stockpile management and security, and collection of small arms and light weapons can be identified within NATO/EAPC.

In March 1999, on the occasion of Euro-Atlantic Partnership Council (EAPC) Meeting at the Ambassadors level, an Ad-Hoc Working Group was established in order to analyze the ways in which the EAPC/PfP could contribute to the solving of the small arms issues.

This initiative reflects NATO's concern on new threats challenging the security and stability of the Euro-Atlantic area that have been already included in the New Strategic Concept adopted by the alliance at the 1999 Washington Summit.

The Working Group's Agenda for the July 9, 1999 meeting included the following topics:

- The management of small arms and light weapons stockpiles;
- The national control systems and mechanisms and their implementation, including arms embargoes;
- The elaboration and development of peacekeeping missions.

The Final Report of the Working Group includes three substantial proposals:

- a) To include small arms and light weapons issue on the Partnership's Working agenda;
- b) To enhance the already existing activities of the partnership in order to meet the recommendations formulated by the Working Group with regard to the general training and to specific assistance and co-operation;
- c) To continue the exchange of opinions in this field.

During 2000 – 2001, Romania attended all EAPC/PfP meetings on this matter and played an active role in exchanging information.

#### *2.4.5. Regional Initiatives*

In October 1999, during the first meeting on the 3<sup>rd</sup> table of the Stability Pact for South-Eastern Europe, combating of illicit trafficking in small arms and light weapons was identified as a major priority. In November 1999, at the OSCE Summit in Istanbul, a common declaration on collection, destruction and secure of small arms and light weapons stockpiling was signed by ten countries in the South East European region, including Romania. On this occasion, the respective states agreed on using the SECI Center in Bucharest for information exchange on the illicit trafficking of weapons and munitions.

At the same time, Romania played an active part in a series of seminars on combating illicit trafficking, destruction and secure small arms and light weapons stockpiling organized under the auspices of the Stability Pact during 2000 – 2001 in this region.

In 1997, at the initiative of the Organization of American States, the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunitions, Explosives and Other Related Materials was signed at a regional level.

The Moratorium on the Import, Export and Manufacturing of Light Weapons was enforced for a three-year period by 16 states belonging to the Economic Community of Western African States – ECOWAS.



## **Chapter 3. The National Institutional and Legal Framework**

### ***3.1. The Establishment and Evolution of the National Export Control Regime***

The Government Decision no. 594/1992 on import and export regime for products and technologies subject to end-use control, as well as on export control for non-proliferation of nuclear, chemical and biological weapons and of missiles capable of delivering such weapons, represented a first step for Romania in the process of adhering to international standards in this field. This act established the National Agency for the Control of Strategic Exports (“ANCEX” - Romanian abbreviation) as a national authority in this field, which, by extending its scope to the control for prohibition of chemical weapons<sup>4</sup>, later became the National Agency for the Control of Strategic Exports and of Prohibition of Chemical Weapons – (“ANCESIAC”- Romanian abbreviation)

Since its establishment, the Romanian export control regime has evolved through a continuous process of accumulation and developing maturity.

Thus, the Government Ordinance no. 31/1994 approved by Law no. 93/1994 on the regime of imports and exports of strategic goods represented an important step in the evolution and improvement of the national control system, establishing the foundation for the total alignment of our country to international standards.

Following international developments, and based on the experience acquired at a national level, the Romanian Government adopted the Emergency Government Ordinance no. 158 from October 1999 on the regime of imports and exports of strategic goods, in order to conclude the accumulation stage in the national system for export control and, thus, establish the conditions for passing to the maturing stage.

The provisions of this act established new fields of responsibility for the respective national authority: control of the non-commercial transfers, the international transit and transshipments, the intangible transfers of technologies and the “catch-all” procedure. It also improved the control mechanisms and procedures, in line with the developments and the practice of other states with more developed control systems, mainly the EU Member States.

Starting in 2001, the enforcement of these provisions initiated the improvement of the Romanian national system for export control.

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<sup>4</sup> Regulated by GD no. 211/1994 and endorsed by Law no. 56/1997 for the implementation of the provisions of the Convention on the prohibition of developing, manufacturing, stockpiling and using chemical weapons and their destruction.

### **3.2. Principles of the Arms Export Control**

Arms export control is based on the strict observance of:

- Principles of the Romanian foreign policy;
- National security and economic interests;
- Objectives of the non-proliferation of weapons of mass destruction, of systems delivering such weapons and of other strategic products used for destabilizing military purposes;
- International treaties and agreements signed by Romania;
- International commitments undertaken by Romania;
- Principles of cooperation with the states that promote a similar non-proliferation policy.

### **3.3. Legal Framework**

In 2000, arms export control was regulated by the following legislation:

- Emergency Government Ordinance no. 158/1999 on regime of exports and imports of strategic goods;
- Government Decision no. 467/1999 on strategic goods subject to export and import control, Annex no. 2;
- Executive Order of the President of ANCESIAC no. 25/1999 on the approval of the Methodological Norms for the implementation of the provisions of Emergency Government Ordinance no. 158/1999 on the regime of exports and imports of strategic goods;
- Executive Order of the President of ANCESIAC no. 27/1999 on the approval of standard authorization and permit forms in compliance with the provisions of the Emergency Government Ordinance no. 158/1999 on the regime of exports and imports of strategic goods;

During 2001, based on the experience acquired in the implementation of the control regime and on the need of both, aligning the national control policy to the guidelines adopted within the international regimes for non-proliferation and export control and streamlining the entire control system, the secondary and tertiary legislation underwent a series of changes. These changes were mainly targeted on the status, organization and functioning of ANCESIAC within the public administration system, the national control lists and the documentation used for control mechanisms and procedures.

Thus, during 2001, the following acts took effect:

- Emergency Government Ordinance no. 2/2001 on the measures for the establishment, organization/reorganization or functioning of ministries, specialized bodies of the central public administration and public institutions;
- Government Decision no. 21/2001 on the organization and the functioning of the Ministry of Foreign Affairs amended by the Government Decision no. 248/2001;
- Government Decision no. 844/2001 on the List of Armaments, Munitions and other Military Goods subject to export and import control regime; this list is presented in the Annex 2, part to the present Report;
- Executive Order of the President of ANCESIAC no. 139/2001 on the approval of standard license forms and other documents stipulated in the Emergency Government Ordinance no. 158/1999 on the regime of exports and imports of strategic goods;
- Executive Order of the President of ANCESIAC no. 148/2001 on the approval of standard authorization and permit forms and other documents stipulated in the Emergency Government Ordinance no. 158/1999 on the regime of exports and imports of strategic goods;

The primary legislation in this field – the Emergency Government Ordinance no. 158/1999 – establishes the operations and the categories of strategic goods subject to import and export control regime, as well as the corresponding national authority. It also provides the elements of the national system for export control and the competencies of the state institutions in this field.

The above mentioned act also includes regulations with regard to the authorization and the licensing of the transfer, transit and transshipment of strategic goods as well as the liabilities of the natural and legal persons developing activities that include this category of goods.

The Emergency Government Ordinance no. 158/1999 stipulates the sanctions to be applied to all natural and legal persons that violate the provisions of the export control regime.

### **3.4. National Authority**

In accordance with the provisions of the Emergency Government Ordinance no. 158/1999, the National Agency for the Control of Strategic Exports and of Prohibition of Chemical Weapons – ANCESIAC - is the relevant national authority in the control of imports and exports of arms and dual-use goods and technologies.

ANCESIAC was organized and has been working under the authority of Ministry of Foreign Affairs since January 4, 2001, as a legal person and specialized body of the central public administration.

ANCESIAC has the following attributions in the field of control of exports and imports of strategic goods in order to exert its regulating, authorizing, licensing and controlling authorities:

- Drafts acts, elaborates regulations for its own use or in cooperation with other authorities in this field, in line with the existing legislation and collaborates with these authorities for the implementation of the legal provisions in its fields of activity;
- Applies the guidelines and the list of strategic goods subject to an end-use control established by the following international regimes for non-proliferation and export control:
  - Wassenaar Arrangement on Exports Controls for Conventional Arms and Dual-Use Goods and Technologies;
  - Nuclear Suppliers Group for the Non-Proliferation of Nuclear Weapons;
  - Zangger Committee for the Control of Highly Sensitive Nuclear Products;
  - Australia Group for the Non-Proliferation of Chemical and Biological Weapons;
  - Missile Technology Control Regime for the Non-Proliferation of Carrier Missiles for Weapons of Mass Destruction;
- Authorizes the persons involved in foreign trade activities with strategic goods in compliance with the existing regulations;
- Verifies the records or sites, whenever necessary, the operations pertaining to the conclusion, development or completion of foreign trade activities that include strategic goods as well as the compliance with the end-user and end-use of these goods;
- Verifies the conformity and the accuracy of the declarations of the persons involved in foreign trade activities with strategic goods;
- Assesses and accepts, on a case-by-case basis, the International Import Certificate or other similar documents issued or certified by the competent authorities from the importing country, in order to issue the export license for strategic goods;
- Issues the International Import Certificate or other similar documents and the Delivery Control Certificate for imports of strategic goods;
- Analyzes and approves, upon the recommendation formulated by the Inter-ministry Council established in compliance with the existing legislation, the applications for import and export licenses for strategic goods;
- Issues import and export licenses for strategic goods;
- Analyzes and approves the applications for permits for non-commercial operations, international transit and transshipment on Romanian territory;
- An issue permits for non-commercial operations, international transit permits, transshipment permits for Romanian territory as well as other documents required by the foreign partners for non-commercial transfer operations on Romanian territory;

- If the control regime for imports and exports of strategic goods is violated, it stops or prohibits the respective export, import, international transit, transshipment or other transfers of strategic goods and it sanctions, in accordance to the law, the persons who violated the control regime;
- Informs the Government on a regular basis with regard to the activity developed by ANCESIAC;
- Organizes information programs for companies focused on the principles, objectives, norms and procedures of the control regime for export and import of strategic goods;
- Offers specialized consultancy, upon request, free of charge, to all companies or persons interested in developing export, import or other type of activities with strategic goods subject to the control regime for export and import of strategic goods;
- Controls the observance of the embargoes on trade with strategic goods imposed by the UN Security Council Resolutions, the OSCE Decision, the joint actions and the positions adopted by the Council of the European Union and of other restrictive measures and regimes;
- Represents Romania, together with the Ministry of Foreign Affairs, in all activities developed by the international regimes for non-proliferation and export control, in international organizations and active bodies in this field
- Cooperates with similar authorities from other states with a view to:
  - Offering mutual information and consultation in the case of license or permit applications, when there are well-grounded suspicions that they could be used for other purposes than the officially declared ones;
  - Updating and consistently applying the existing regulations in this field, including the list of strategic goods;
  - Notifies violations of the control regime in order to be sanctioned by the competent national authorities
- Initiates the updating of the lists of strategic goods subject to the control regime for export and import in line with the obligations and the commitments undertaken by Romania at the international level
- Is in charge with adoption of the community *acquis* in this field;
- Initiates actions aimed at promoting Romania's specific interests in its relations with export control organizations and regimes acting at the international level, together with the Ministry of Foreign Affairs and other relevant institutions;
- Fulfils any other tasks stipulated by law with regard to the regulation, authorization and control of exports and imports of strategic goods.

### **3.5. Cooperation at Institutional Level**

#### **3.5.1. Inter-ministry Council**

The Inter-ministry Council, an important element of the national control system for exports and imports of strategic goods, was established in compliance with the provisions of Article 23 of Emergency Government Ordinance no. 158/1999.

The Inter-ministry Council is chaired by the head of ANCESIAC, and includes representatives, at the level of Director position, of the following ministries and public institutions:

- National Agency for the Control of Strategic Exports and of Prohibition of Chemical Weapons – as national authority;
- Ministry of Foreign Affairs;
- Ministry of National Defense;
- Ministry of Public Finances;
- Ministry of Industries and Resources;
- Ministry of European Integration;
- Ministry of Interior;
- Romanian Intelligence Service;
- Foreign Intelligence Service;
- National Commission for Nuclear Activities Control

The Inter-ministry Council analyzes and formulates recommendations on license applications for:

- 1) export and import of strategic goods;
- 2) import of armaments, munitions and other military goods;
- 3) import of sensitive and highly sensitive dual-use goods;
- 4) transactions with foreign partners that refer to the buying or selling of strategic goods, without physically touching the Romanian customs territory.

The Inter-ministry Council meets on a weekly basis, in form of ordinary meetings or, upon the request of any of its members, in extraordinary meetings.

The decisions of the Inter-ministry Council are reached by consensus.

#### **3.5.2. Romanian Counter-Proliferation Group**

The Romanian Group for Non-Proliferation, an informal mechanism established in July 1998, aims at reducing the threats represented by weapons of mass destruction, the illicit trafficking of arms, and of the dual-use (civil and military) goods and technologies that could interfere with Romania's security needs.

The coordination and cooperation that exists between the state institutions part of this mechanism, mainly based on the exchange of specific information, provides the operational framework for rapid interventions in order to prevent and solve the incidents and the emergency situations connected to activities that involve weapons of mass destruction, arms, and dual-use goods and technologies.

The Romanian Group for Non-proliferation was established on the initiative and with the support of the Government of the United States of America and it develops its activity based on a Protocol signed by the representatives of the institutions involved in this field:

- National Agency for the Control of Strategic Exports and of Prohibition of Chemical Weapons;
- National Commission for Nuclear Activities Control;
- Ministry of Foreign Affairs;
- Ministry of National Defense;
- Ministry of Public Finances:
  - i. General Customs Directorate;
  - ii. Financial Guard;
- Ministry of Interior:
  - i. Division of Strategic Economic Investigations;
  - ii. General Police Inspectorate (departments involved in combating organized crime and control of fire arms, explosives and chemicals);
  - iii. General Inspectorate of Border Police;
- Romanian Intelligence Service;
- Foreign Intelligence Service.

ANCESIAC provides for the chairing and the secretarial activities of the Romanian Group for Non-Proliferation.

### *3.5.3. Other Relevant Bodies*

The following bodies or departments have direct responsibilities within the national control system for exports and imports of strategic goods:

- National Commission for Nuclear Activities Control, within the Ministry of Waters and Environment Protection; the export and the import of nuclear materials and technologies (dual-use);
- Office for the Control of Imports and Exports of Special Goods within the authority of the Ministry of National Defense: the import and the export of weaponry, munitions and other military goods;
- Division for Strategic Economic Investigations within the Ministry of Interior: obtaining, processing, analyzing and stocking the information on the observance of the juridical regime of the foreign trade activities with strategic goods;

- General Customs Directorate within the Ministry of Public Finances: customs activities for strategic goods, representing one of the most important interfaces between the exporter/importer and the control regime.

### **3.6. Guidelines and Procedures on Supporting Technical Information**

#### **3.6.1. Authorization**

In accordance with the provisions of the Emergency Government Ordinance no. 158/1999, the arms export, import, re-export and any other commercial transfer activities developed on a temporary or permanent basis to or from Romania, as well as the operations with foreign partners, involving buying or selling of such products without physically touching the Romanian customs territory, are part of the category of foreign trade operations with strategic goods.

Only the legal person resident in Romania that is authorized by the ANCESIAC or by the Ministry of National Defense, as the case may be, can develop such activities.

The authorization is issued only to those legal persons that meet the legal requirements stipulated in the Methodological Norms for the Implementation of the Provisions of Emergency Government Ordinance no. 158/1999.

The authorization represents a pro-forma approval granted by the state authorities to a company developing foreign trade operations and can constitute only a prerequisite, but not final, document based on which a concrete arms export, re-export or import operation can be developed.

#### **3.6.2. Licensing**

Any company, holder of an authorization, can carry out a foreign trade operation with arms only if it obtains an export or import license issued by ANCESIAC, within the limits of the law.

The license issued by ANCESIAC can be:

1. *Individual license*, granted to a specific exporter or importer for exporting or importing one or several goods to or from a single foreign partner, or
2. *Global license* granted to a specific exporter or importer for one or several goods and can be valid for exports or imports to or from one or several determined countries.

The global license is issued only in certain circumstances, for strategic goods and end users that are well determined. Up to now, only individual licenses have been issued.

The license represents the main control instrument and the license application undergoes a complex assessment procedure, which includes a cross-disciplinary and multi-criteria expertise initiated within ANCESIAC and finalized by the Inter-ministry Council.



The following considerations are taken into account when examining a license application:

- a. UN Security Council Resolutions on the embargoes imposed on transfers of arms, munitions and pertaining materials and services;
- b. OSCE Decision, the provisions included in the EU joint actions and positions on the embargoes imposed on a region or regions and the measures necessary for the strengthening of the arms export control in order to prevent the destabilizing accumulations of such strategic goods;
- c. Commitments resulting from strategic partnerships with other states;
- d. Political, economic and security interests of Romania;
- e. Provisions of international agreements, treaties and conventions in the field of non-proliferation and arms control;
- f. Decisions adopted by the Wassenaar Arrangement and by other international control regimes for export and import of strategic goods;
- g. Data and the information resulting from the bilateral and multilateral cooperation in this field;
- h. Behavior of the parties involved in the respective commercial transfer;
- i. The credibility of the end-user and the end-use of the transferred strategic goods.

In the process of assessing the applications and issuing the licenses, there are no criteria on the nature of the capital and the legal status of the applicant, holder of a foreign trade authorization for arms.

### *3.6.3. Permits*

Based on a permit issued by ANCESIAC, the legal person's resident in Romania can carry out the following arms operations stipulated by the Emergency Government Ordinance no. 158/1999:

- Non-commercial operations for temporarily or permanently taking the goods out of or bringing them on Romanian territory;
- International transit through Romanian territory;
- Transshipments on Romanian territory.

The permits are issued based on the same criteria as in the case of the licenses.

Similar to the individual licenses, the issued permits only refer to a single operation controlled through these instruments.

The persons applying for a permit for the above-mentioned operations do not need a prior authorization for the development of such operations.

#### *3.6.4. Post-delivery control*

The post-delivery control is an important part of the control regime for arms exports as a whole. The continuity and efficiency of the post-delivery control are ensured through the action of the companies that meet the obligations they have during each stage of the process: pre-licensing, licensing, delivery and post-delivery.

All the institutions relevant in the field of export control, for which the exchange of information represents the main instrument in the implementation of the principle of cross-institutional cooperation, are responsible for performing a document control and an on site control on the preparation, development and conclusion of the arms operations.

In this respect, the Emergency Government Ordinance no. 158/1999 stipulates the obligation of the exporter to solicit and to obtain from its foreign partner a delivery control certificate or a similar document, which proves that the exported goods have reached their authorized destination in line with the license and the substantiating documents.

The original copy of this document confirming the fact that the exported goods have reached their final destination must be submitted to ANCESIAC, within 4 months from delivery.

This provision does not differentiate between the importers/end-users from states with similar export control systems and those from states that do not have such a regime. In this respect, the document called "The Control of Strategic Exports: National Policies and Practices" launched in April 2001 includes 41 profiles of states that have instituted an export control regime and is extremely useful for the Romanian companies.

The end-use document presented when applying for a license as well as the delivery control document are important elements in the authorization and the conclusion of an arms export operation, as they represent a guarantee for the Romanian authorities that the operation took or will take place in compliance with the legal provisions in this field.

## **Chapter 4. Actions for Strengthening the Control of Arms Export in 2001**

### ***4.1. Improvement of the Legal Framework***

Government Ordinance no. 2/2001 on providing measures for the establishment, organization/reorganization or functioning of ministries, special central public administration bodies and public institutions, placed ANCESIAC within the Ministry of Foreign Affairs.

This new status, designed to increase the coherence and the efficiency of the export control system through a tighter collaboration between the political, economic, technical and specialized expertise and the decision making process led to a series of improvements in the field of secondary and tertiary legislation.

In this regard, ANCESIAC initiated the draft law on approval of Romania's participation to the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, (Law no. 499 of July 11, 2002 on approving the payment of Romania's participation fee to Wassenaar Arrangement– Initial Elements – adopted on July 12, 1996 and amended on December 7, 2001).

Through these measures, the control system for arms export became more consistent and more accurate with regard to:

- The alignment to the guidelines and the control lists of EU and the international regimes for non-proliferation and export control;
- The observance of the embargoes and the restrictive measures existing in this field;
- Promoting transparency and strengthening the national authority and the control mechanisms and procedures;
- Developing and strengthening the control instruments for the prevention of any violations of the control regime.

### ***4.2. Improvement of the Organizational Framework***

In 2001 ANCESIAC underwent a process of administrative reorganization aimed at meeting the following objectives:

- a) Establishing responsibilities for the entire personnel on fulfillment of their functional attributions;
- b) Redistributing responsibilities of the internal structures of ANCESIAC in compliance with the real needs of the export control system;
- c) Improving the inter-agency cooperation and developing the cross-institutional cooperation;

- d) Improving the relationship between government and industry and intensifying the dialogue with the civil society;
- e) Improving public image and credibility of ANCESIAC, and of the national system for export control as a whole.

In this context, the control of arms export became the main objective of ANCESIAC's activity, given both the importance of such operations in the total number of operations with strategic goods as well as their high degree of sensitivity.

The measures and the actions taken in this respect referred to:

- A better use for the material and human resources;
- A dynamic restructuring of the specialized personnel from the managerial or executive level;
- Improving the activity in the field of authorization, licensing and control by capitalizing on the working and creative potential of the personnel involved in specific activities;
- Providing the stability of the personnel in various sub-fields and directions of action;
- Improving the specialized training of the personnel responsible in this field;
- Increasing the level of computerization in the activities specific for the control of arms exports and imports;
- Developing the dialogue with the economic units that carry out foreign trade operations with arms;
- A better use of the data and the information received from the institutions relevant in this field.

The measures taken within this reorganization process facilitated the fulfillment of the objectives for 2001.

The ANCESIAC experts have been incredibly busy due to the intense activity of authorization, licensing and control and the high number of consultancy requests. Yet, the specialized training of personnel for various fields of activity and categories of operations and products with a view to streamlining the analyzing and approval process was only partially realized, for 35% of the personnel.

### ***4.3. Inter-Agency Cooperation***

In 2001, the streamlining of the cross-institutional cooperation represented a priority for the national authority and was developed in two directions:

- Increasing the responsibility of the ministerial and institutional representatives in the multilateral mechanisms of the cross-institutional cooperation;
- Developing the bilateral cooperation, bringing them at an official level.

The efficiency of the Inter-ministry Council for the control of exports and imports of strategic goods in assessing and formulating recommendations on the license applications for arms export and import increased progressively during the entire year of

2001. This is first and foremost reflected in the measures taken by the national authority in preparing the meetings of the Council, where its members had the opportunity to express pertinent positions.

For a correct assessment of license applications and in order to prevent any risks related to arms transfers, ANCESIAC required and received specific data and information.

In 2001, the bilateral cooperation with relevant institutions from this field developed and gained an official character based on three Collaboration Protocols signed with the National Commission for Nuclear Activities Control, the General Customs Directorate, and Chamber of Commerce and Industry of Romania and Bucharest, as well as on a Joint Action Plan with the Division of Strategic Economic Investigations within the Ministry of Interior.

The provisions of the three Protocols and of the Joint Action Plan contribute to the strengthening of the cooperation mechanisms and common instruments designed to facilitate the commercial operations and to combat the illicit trafficking of arms.

#### ***4.4. Government Outreach to Industry***

The promotion of transparency and communication within the economic environment represented, for the entire year of 2001, one of the pillars upon which the national authority developed its activity in the field of regulation, authorization, licensing, control and representation, in line with the Emergency Government Ordinance no. 158/1999.

In this respect, the program for “Transparency and Communication with Economic Partners” encompassed an entire range of activities relevant in this field, including the control of commercial and non-commercial operations with arms.

In March 2001, ANCESIAC launched its website [www.ancesiac.ro](http://www.ancesiac.ro), which includes data and information on the regulations in this field, the national authority, the control mechanisms and procedures, the international obligations and commitments undertaken by Romania and other relevant information.

The website also has an English version and is constantly updated with information and new insights from the export control field.

On April 27, 2001 ANCESIAC organized the National Seminar on “Transparency, Communication and Cooperation with our Economic Partners”. Main topics focused on improving the existing legislation, simplifying licensing procedures and customs formalities, continuing the dialogue between government and industry and NGO’s.

Also, the Seminar included a working group panel on control of arms transfers attended by representatives of relevant governmental institutions and authorized companies as well as media representatives.

In order to provide a useful guide to companies and government institutions with regard to 41 national systems for export control ANCESIAC circulated during the conference “The Control of Strategic Exports National Policies and Practices”

Based on the same program, other similar events that took place in 2001 added value to the information dissemination process and created an environment favorable for cooperation and mutual trust between ANCESIAC, other relevant state institutions and business community:

- (a) Public debate on “The Relationship between Government and Industry within the Control Regime for Exports and Imports of Strategic Goods” – Bucharest, June 18, 2001;
- (b) Regional Seminar on “The Control Regime for Exports and Imports of Strategic Goods” – Brasov, June 29, 2001;
- (c) Round table on “The Control Regime for the Foreign Trade with Strategic Goods” – Bacau, September 7, 2001.

In November 2001, ANCESIAC participated for the first time as an exhibitor at the Exhibit of Military Technique “EXPOMIL”. ANCESIAC displayed information and brochures on the national control system for the export and import of strategic goods, as well as on relevant Romanian legislation. Also, ANCESIAC launched its first electronic product on “The Embargoes on Arms Exports”, well received by companies carrying out business in this field.

Furthermore, these events have been supported by the continuous activity of ANCESIAC in the field of specialized consultancy offered to all companies as well as to all natural or legal persons interested in export and import operations with arms. This consultancy encompassed technical and commercial evaluations, national and international legislation as well as other issues related to the strategic importance of various goods and the opportunity of carrying out arms transfers.

#### ***4.5. Development of International Cooperation***

Considering all of the developments, which occurred within the international regimes for non-proliferation and export control as well as the initiatives, promoted at the international, regional and sub-regional level in 2001, ANCESIAC continued to strengthen its position as the national authority in the management of arms export control.

In this respect, its external activities were oriented to two major directions:

- (a) Increasing Romania’s contribution to the process of cooperation promoted within the multilateral mechanisms for export control;
- (b) Developing bilateral cooperation with relevant authorities from countries with similar export control systems.

In this regard, ANCESIAC attended in 2001 to the working groups and the Plenary of the Wassenaar Arrangement, as well as events hosted by other regimes for non-proliferation and export control.

By actively presenting its national policy and practice, Romania brought its own contribution to development of multilateral cooperation mechanisms and the exchange of information within the Wassenaar Arrangement.

Moreover, Romania's continued participation was aimed at improving guidelines, control mechanisms and procedures and updating the lists of goods and technologies with end-use control.

In order to contribute to the regional and international peace and security, Romania actively attended the meetings of the Preparatory Committee and the UN Conference on the illicit trafficking of small arms and light weapons in all its forms, in New York between July 9 – 20, 2001.

Romania's position presented by the President of ANCESIAC in the opening session on this issue was reflected in the proposals made by the Romania delegation during drafting of the Action Plan on preventing, combating and eliminating the illicit trafficking of small arms and light weapons.

Considering the fact that the illicit trafficking of small arms and light weapons represent a threat for each state of the world, Romania showed, at a regional level, a special interest for a series of events organized by EU, NATO, OSCE and various NGO's.

Romanian delegations presented the main elements of the Romanian control systems for arms exports, its practice in this field, as well as underlined its strong commitment on enforcing an efficient control on small arms and light weapons.

In the area of bilateral relations during 2001, ANCESIAC collaborated with similar authorities from the United States, Israel, Hungary, Poland, the Netherlands, and France. These meetings were aimed at improving the mutual knowledge regarding the national systems for export control and at identifying best practices in this field.

## **Chapter 5. Romanian Arms Export. 2000-2001. Facts and Figures**

### ***5.1. Authorized Foreign Trade Activities***

During the year 2000, 39 companies held authorizations for carrying out foreign trade activities with arms. This number increased to 43 in 2001. The legal persons holding such authorizations had private or public capital.

The authorizations covered all six categories of foreign trade operations listed in Emergency Government Ordinance no. 158/1999 and all categories of arms listed in Government Decree no. 467/1999, Annex no. 2 (List of Armaments, Munitions and other Military Goods), replaced by Government Decree no. 844/2001.

The main categories of products for which authorizations were solicited and issued during 2000 were:

- (a) **ML 1** – arms and automatic weapons with a caliber of 12.7 mm (caliber 0.50 inches) or less and accessories and specially designed components therefore;
- (b) **ML 2** – armament or weapons with a caliber greater than 12.7 mm (caliber 0.50 inches), projectors and accessories and specially designed components therefore;
- (c) **ML 3** – munitions and specially designed components therefore, for the weapons controlled by ML 1, ML 2 or ML 3;
- (d) **ML 5** – fire control and related alerting and warning equipment and related systems, test and alignment and countermeasure equipment, specially designed for military use, and specially designed components therefore;
- (e) **ML 10** – aircraft, unmanned airborne vehicles, aero-engines and aircraft equipment, related equipment and components, specially designed or modified for military use;
- (f) **ML 11** – electronic equipment not controlled elsewhere on the Munitions List, specially designed for military use and specially designed components therefore;
- (g) **ML 15** – imaging or countermeasure equipment, specially designed for military use and specially designed components and accessories therefore;
- (h) **ML 16** – forgings, castings and other unfinished products the use of which in a controlled product is identifiable by material composition, geometry or function, and which are specially designed for any products controlled by ML 1 to ML 4, ML 6, ML 9, ML 10, ML 12 or ML 19.

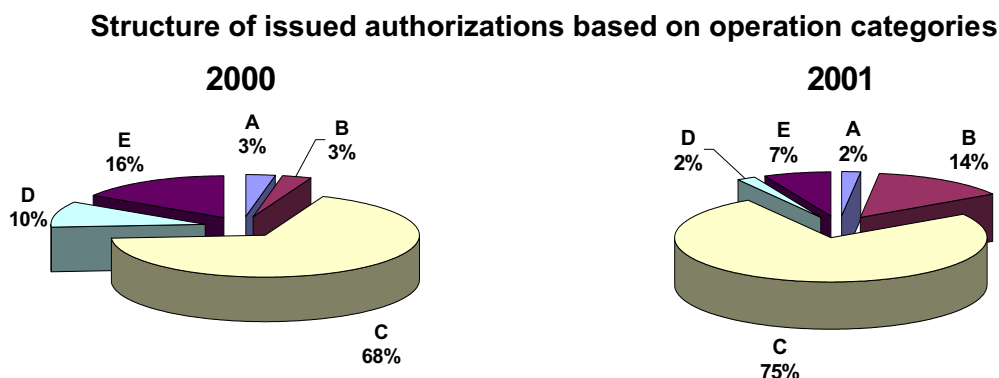
For year 2001, this list was supplemented with the following categories of goods:



- (a) **ML 4** – bombs, torpedoes, guided and unguided rockets and related equipment and accessories specially designed for military use, and specially designed components therefore;
- (b) **ML 6** – ground vehicles and components therefore specially designed or modified for military use;
- (c) **ML 8** – military explosives and fuels, including throwers, propellants and related substances;
- (d) **ML 13** – armored or protective equipment and constructions and components;
- (e) **ML 14** – specialized equipment for military training or for simulating military scenarios and specially designed components and accessories therefore;
- (f) **ML 18** – equipment and technology for the production of products referred to in the List of Armaments, Munitions and other Military Goods;
- (g) **ML 22** – technology for the development, production or use of items controlled in the List of Armaments, Munitions and other Military Goods, other than that technology controlled in ML 7 and ML 18.

Figure no. 2 structures the authorizations issued by operation categories, from a comparative point of view.

**Figure no. 2**



A = Export

B = Import

C = Export + Import

D = Export + Import + Re-exportation

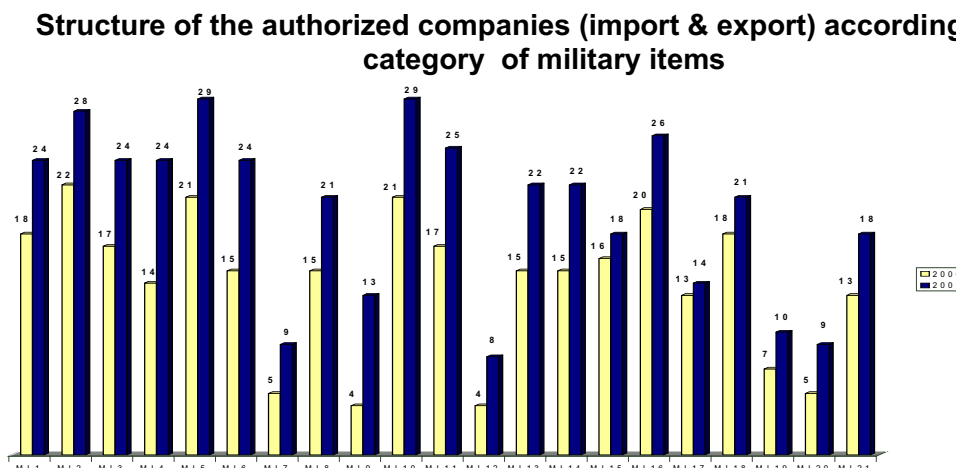
E = Export + Import + Re-exportation + Operations that did not physically touch the Romanian customs territory.

The authorizations issued for both import and export operations are predominant due to the potential of the Romanian defense industry and to the need of importing military goods that are necessary for the national defense, public order and security systems.

The other operation categories (re-exportation, operations that did not physically touch the Romanian customs territory) reflect the intention of some Romanian exporters to intermediate arms operations with foreign suppliers.

Figure no. 3 display the scope of Romanian companies authorization for the category of military items.

Figure no. 3



The goods (categories ML 1, ML 2, ML 3, ML 10, and ML 16) that can be exported from domestic sources (the Romanian defense industry and the goods administered by the Ministry of National Defense) are preponderant. Also, an important fraction is represented by the goods imported through direct acquisitions for equipping the Romanian Army or through programs aimed at modernizing the military techniques of the Romanian Army (ML 5, ML 10, ML 11, and ML 22).

## 5.2. Licensed Foreign Trade Activities

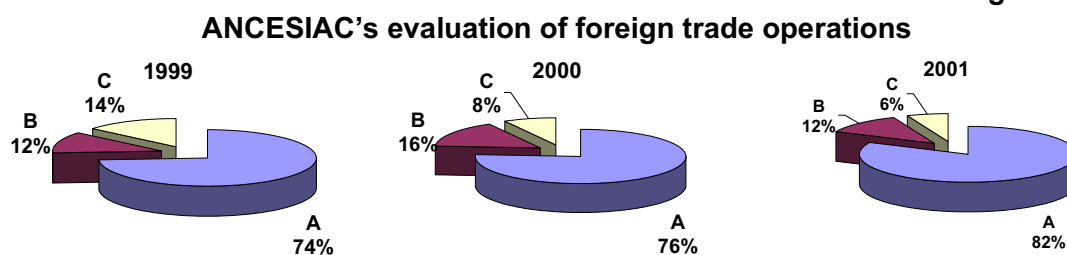
### 5.2.1. Processing, Analysis and Approval of License Applications

The most important part of ANCESIAC's activity in analyzing, examining and approving applications for foreign trade operations was represented by the analyze of the documents and the on site analyze of the foreign trade operations.

In 2000, ANCESIAC received 1,396 license applications for foreign trade operations (temporary or permanent import and export) with arms; 716 of them were for export and 680 for import. In 2001, 1,175 applications were submitted to ANCESIAC, out of which 618 were for export and 557 for import.

Figure no. 4 illustrates the results of a complex multi-dimensional analysis based on multiple criteria performed by ANCESIAC within the process of evaluating the foreign trade operations with arms.

Figure no. 4



- A – License applications that will be presented to the Inter-ministry Council
- B – Refused license applications – form error
- C – Refused license applications – content error

A comparative analysis between the 1999 and the 2000 – 2001 data points out some changes in the structure of the license applications process by ANCESIAC as a consequence of the Emergency Government Ordinance no. 158/1999 on the regime of exports and imports of strategic goods, which took effect at the end of 1999.

As reflected in chart no. 4, in 2001, there were no significant changes in the results of ANCESIAC's evaluation of the foreign trade operations as compared to the year 2000.

In 42% of the cases, in support of their license applications for arms exports, the companies presented the International Import Certificate as a supporting document, while in the other 58% of the cases, the respective companies presented other similar documents (End-Use Certificate, End-Use Declaration endorsed by the competent authorities or the End-Use and Non-Transfer Certificate). These values represent an annual average for the period 2000 – 2001, the annual variation representing  $\pm 2\%$ .

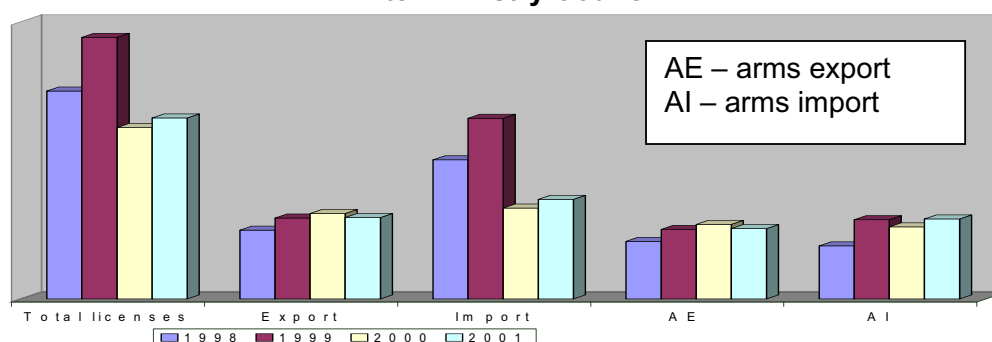
The average license application processing time for ANCESIAC was approximately 15 days.

During 2000, the Inter-ministry Council for the control of exports and imports of strategic goods examined 1,062 license applications for arms exports and imports; in 2001, the Inter-ministry Council examined 964 license applications.

Figure no. 5 shows the preponderance of the arms export in strategic goods operations as a whole.

Figure no. 5

**Evolution of the license applications for strategic goods examined by the Inter-ministry Council**



For the arms export operations, in 2000, the Inter-ministry Council recommended the approval of export licenses for 99.87% of the examined applications and for 2001, the rate of recommendation for approval was of 100%.

**5.2.2. Issued Licenses**

In 2000, ANCESIAC issued 544 individual licenses for arms export, for either temporary or permanent operations. For the year 2001, the number of issued licenses decreased to 507.

The total value of the export licenses issued by ANCESIAC for permanent operations and of licenses issued for temporary operations with hard currency incomes from inward processing operations amounted to 42.2 millions USD for the year 2000 and to 33.8 millions USD for 2001.

All licenses were issued based on the recommendation of the Inter-ministry Council and their end-user was either a governmental entity or a foreign company authorized to develop arms operations by the competent authorities from the countries where they were registered as a legal person.

In 2000, ANCESIAC refused 2 license applications for export to destinations considered to present some risks for unauthorized use, and 2 licenses were revoked as consequence of the embargoes imposed on the country of destination. The total value of these license applications amounted to approximately 3 millions USD.

In 2001, after assessing a commercial inward processing operation, ANCESIAC identified the risk that the goods will be diverted to an undesirable destination and, therefore, suspended and then revoked a license with a value amounting to approximately 2 millions USD.

Figure no. 6 illustrates the preponderance of the licenses for arms export in the total number of licenses issued for this category of strategic goods.

Figure no. 6

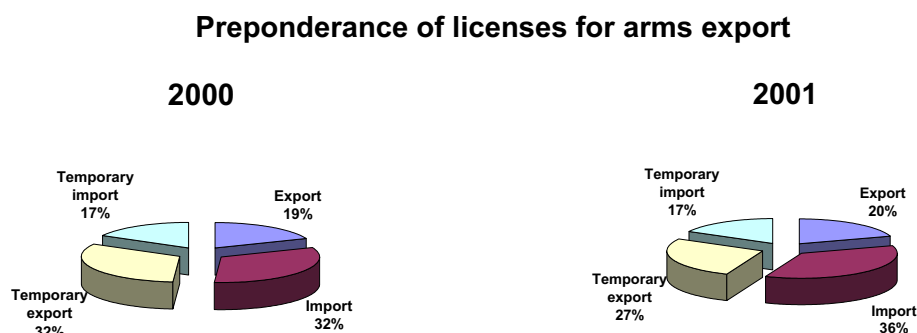


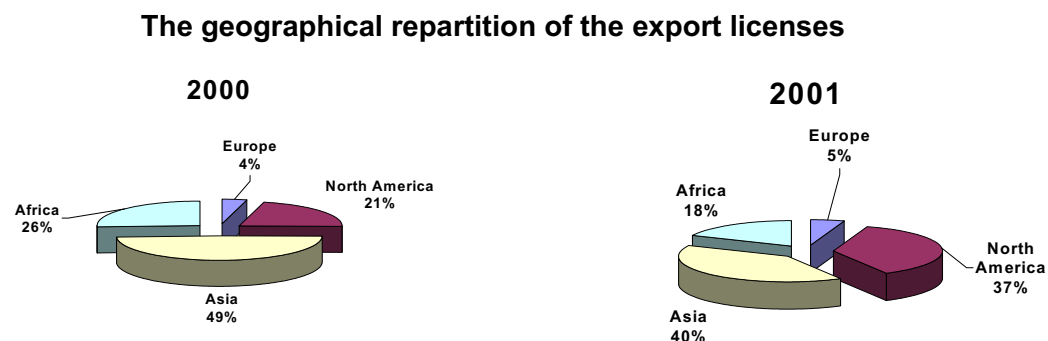
Figure no. 7 illustrates the geographic repartition of the licenses issued for permanent operations from the point of view of their value and figure no. 8 illustrates the same thing from a percentile point of view.

Figure no. 7

**The geographical repartition of the permanent export licenses (value)**

Continent	Value of the export licenses (USD)	
	2000	2001
EUROPE	1,552,150	1,713,685
ASIA	20,693,932	13,541,496
AFRICA	10,861,559	6,050,915
NORTH AMERICA	9,069,171	12,365,575
TOTAL	42,176,812	33,671,671

Figure no. 8



The destinations indicate, on one hand, the geographical repartition of the arms demand from one segment of the respective market and, on the other hand, the capacity of the Romanian exporters to meet this demand, the Romanian defense industry being the main source of export in this field.

At the same time, figure 7 is an indicator of the way in which the competent Romanian authorities observed the embargoes and other restrictive measures imposed at an international or regional level on arms transfers.

### 5.2.3. Effective Exports

The total value of the permanent arms exports for 2000 amounted to 37.8 million USD, representing 0.3% of the total value of Romanian exports.

For the year 2001, the value of the exports decreased to 24.5 million USD, thus representing only 0.2% of the total value of Romanian exports.

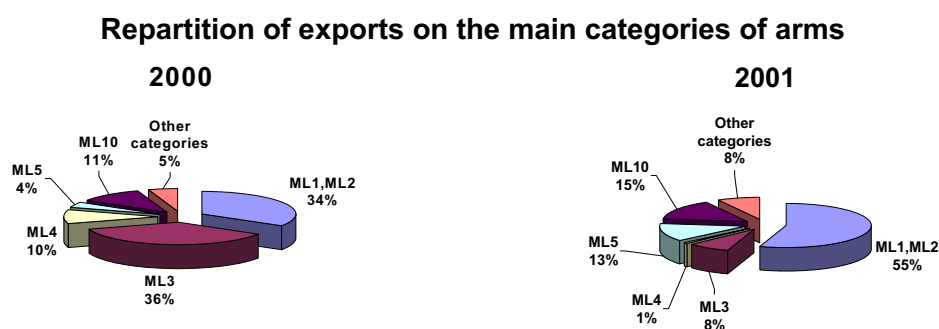
In 2001, the total value of the arms exports decreased by 35% compared to the year 2000.

The value of direct exports from domestic sources amounted to 26 million USD in 2000 and to 20.5 million USD in 2001, representing 70% and 83% respectively, while the remaining 30% and 17% respectively, represent the exports resulted from inward processing operations (restoration and Lohn operations).

The total exports (temporary and permanent) represented 34% and the imports 66% of the total value of the foreign trade operations with arms. The year 2001 marked a shift in the structure of the foreign trade operations with arms, the exports representing 47% and the imports 53%. These values point out an adverse trade balance, determined, on one hand, by the need to equip the national defense, public order and security system with modern military technical means and, on the other hand, by the reduced technological capacity of the defense industry to produce such highly competitive means destined to satisfy both the domestic needs and the external demand.

Figure no. 9 presents the main categories of arms exported during 2000 – 2001 and their proportion in the structure of the exports as a whole from a comparative point of view.

Figure no. 9



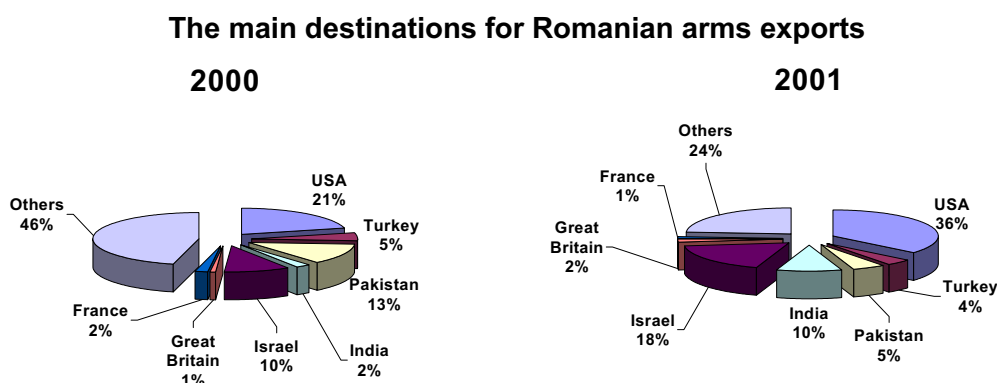
In the structure of Romanian arms exports, the small caliber arms (ML1) represent the most important segment, light weapons (ML 2) and the related munitions (ML 3).

This structure emphasizes the main fields where the Romanian defense industry, based on its specific technical equipment, maintains its capacity to competitively manufacture and export such goods even if the competition on this market is continuously increasing at a global level.

For the ML 10 category (aircraft) the exports were mainly based on restoration and Lohn operations.

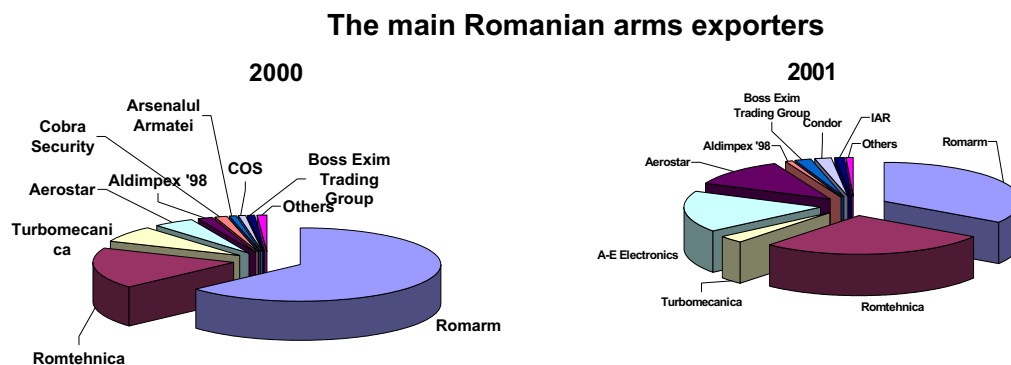
Figure no. 10 presents the main countries of destination for the Romanian arms exports. Among these, seven countries (the USA, Turkey, Pakistan, Israel, Great Britain and France) constitute the most important segment (54% in 2000 and 76% in 2001). The Chart also includes the values of the inward processing operations (restoration and Lohn operations).

**Figure no. 10**



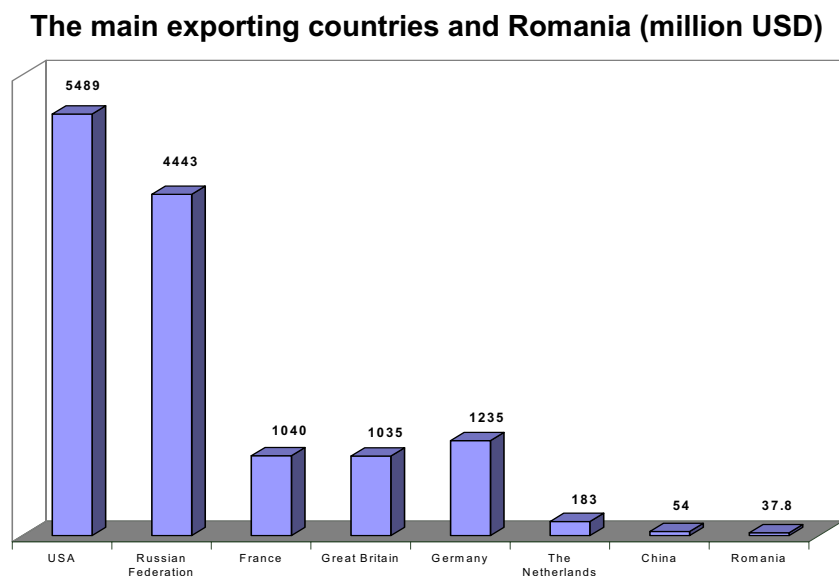
The participation of the Romanian exporters in the arms export in 2001 compared to the situation in 2000 is illustrated in figure no. 11, which also indicated the fact that, in the case of direct exports, CN Romarm and RA Romtehnica (state-owned companies) represented the most important segment (57% in 2000 and 78% in 2001). The main exporters for products resulting from inward processing operations were SC Aerostar SA and SC Turbomecanica SA (private companies) representing 20% from the total of such products in 2000. In 2001, for the same category of activities as an export source, the main exporter was SC Elprof SA, together with SC Turbomecanica SA (12%).

Figure no. 11



Based on the data supplied by the Stockholm International Peace Research Institute – SIPRI, figure no. 12 compares the Romanian arms exports for 2000 to the exports of the seven most important exporting countries: the USA, the Russian Federation, France, Great Britain, Germany, the Netherlands and China.

Figure no. 12



The data for the seven exporting countries represents the exports for the main categories or arms, while for Romania they represent the total military goods exports.

Figure no. 13 illustrates the dynamics of the exports for 1996 – 2000 for the same countries, including Romania.



**Figure no. 13**

**The dynamics of the global exports for 1996 – 2000 (million USD)**

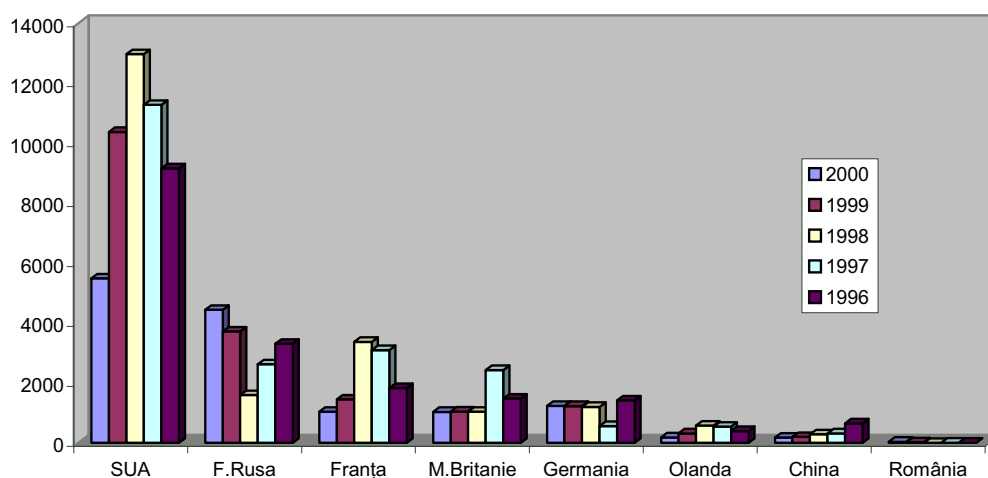
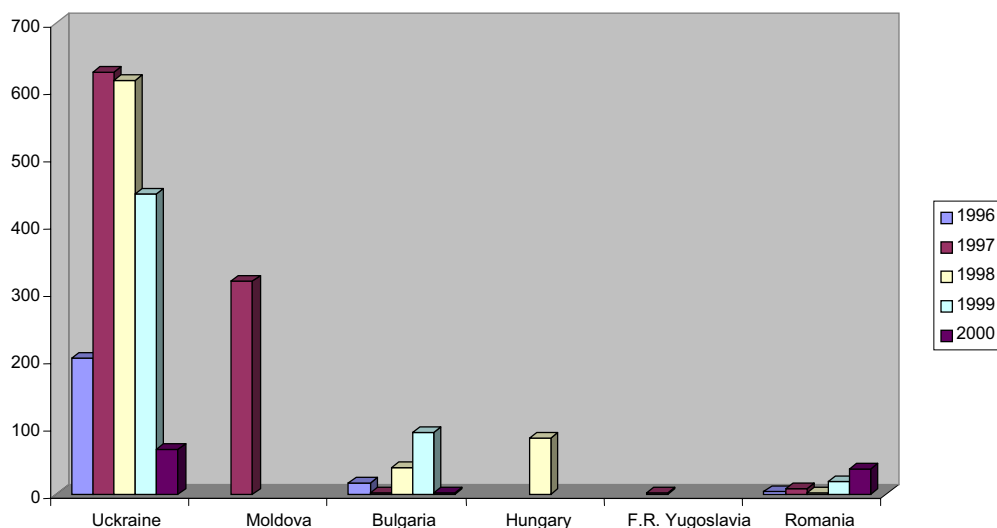


Figure no. 14 compares the Romanian export to the situation from the neighboring countries for the main categories of arms (according to SIPRI).

**Figure no. 14**

**The dynamics of the Romanian and neighboring countries' exports for 1996 – 2000 (million USD)**

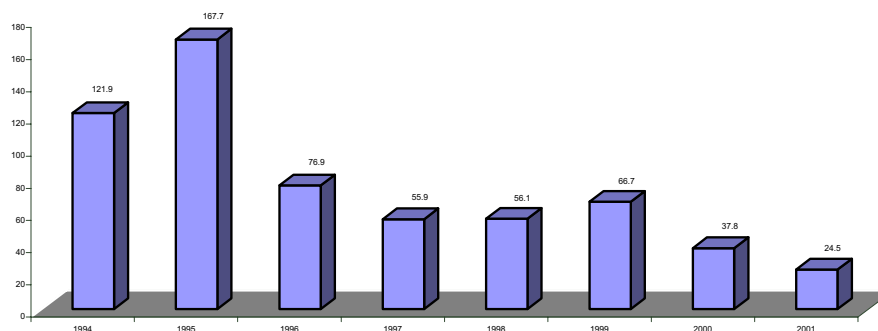


For the neighboring countries, the data refers to the main categories of arms, while for Romania they refer to the total military goods exports.

Figure no. 15 illustrates the dynamics of the Romanian arms exports for 1994 – 2001.

Figure no. 15

The dynamics of the Romanian exports for 1994 – 2001 (million USD)



The value of the exports from Chart no. 15 refers to Romania's total exports. For the main categories of arms, their value is lower than 50%, which places Romania in the 40<sup>th</sup> position, at a global level, for the period 1996 – 2000. Also, for the main categories of arms, Romania's imports place it in the 64<sup>th</sup> position, at a global level, for the period 1996 – 2000. An analysis of the data presented in figures 12 – 15 reveals the fact that the Romanian arms exports manifest a downward trend similar to the situation in other exporting countries, as illustrated in figure no. 16.

Figure no. 16

International transfers of arms and military technologies for 1994 – 2001 (million USD)



### 5.3. Non-Commercial Transit and Transshipment Operations

#### 5.3.1. Permits for Non-Commercial Operations

In 2000, ANCESIAC issued 38 permits for non-commercial operations.

Out of these permits, 21 were issued for bringing on the national territory strategic goods on the occasion of various events developed on Romanian territory:

- Joint tactical exercises (Rescue Eagle 00/Medceur 00-2, Carpathian Express 2000, Cooperative Key 2000, Cooperative Best Effort 2000, Elipse Bravo 2000) attended by military forces from the United States, Italy, Great Britain, Bulgaria, France, Turkey, Ukraine, the Netherlands, Republic of Moldova and others;
- Air shows (the “Timisoara” Air - Show attended by representatives from Austria, Great Britain, Bulgaria, the USA, Turkey, Ukraine and Hungary);
- Other actions (courtesy visits).

In 2000, ANCESIAC also issued 17 permits for temporarily taking military equipment necessary for the participation of Romanian Army forces out of Romania to:

- Peacekeeping missions (SFOR, KFOR, UNMIK);
- Joint training activities with structures from several foreign armies (Dynamic Response 2000, Linked Sears 2000, Combined Endeavour 2000, Cooperative Partner 2000, Seven Stars etc.);
- Air shows in Austria, Hungary, the Czech Republic and the Netherlands.

In 2001, the number of permits issued for non-commercial operations increased to 55, with the following repartition structure:

(a) 32 permits for introducing strategic goods on Romanian territory, on the occasion of:

1. Joint tactical exercises (Carpathian Express 2001, Blackseafor Breeze 2001, Deniz Yildizi – 01);
2. Air shows (the “ROIAS – 2001 Air Show” attended by representatives from Austria, Belgium, the Czech Republic, Croatia, Denmark, Germany, France, Italy, Great Britain, the Netherlands, Sweden, the USA, Turkey, Ukraine, the Federal Republic of Yugoslavia);
3. Other activities (courtesy visits).

(b) 23 permits for temporarily removing from the national territory military equipment necessary for the participation of forces from the Romanian Army to:

- Peacekeeping missions (SFOR, KFOR, UNMIK);
- Joint training activities with structures from several foreign armies (Cooperative Key 2001, Esperia 2001, Cooperative Best Effort 2001, Seven Stars 2001, Combined Endeavor 2001, Dynamic Response, Corner Stone);
- Air shows in the Czech Republic, France, the Netherlands, Great Britain, and Turkey.

These transfers of strategic goods were carried out under the supervision of the Ministry of National Defense and the Ministry of Interior, the respective goods being part of some military echelons.

The main product categories that were permanently or temporarily transferred as part of non-commercial operations were ML 1, ML 2, ML 3, ML 4, ML 6, ML 9, ML 10, ML 11 and ML 15 and the average processing time for such permit applications was for 7 days.

### *5.3.2. International Transit Permits*

In 2000 ANCESIAC issued 202 international transit permits, which decreased to 142 in 2001.

International transit on Romanian territory was carried out under the supervision of the Ministry of National Defense for 197 operations in 2000 and for 137 operations in 2001, while the Ministry of Interior ensured the supervision and the security of 5 transit operations in 2000 and 5 in 2001.

The international transit operations with military goods on Romanian territory were carried out within the transit of foreign military echelons that deployed peacekeeping missions (184 missions in 2000 and 126 missions in 2001) and joint tactical exercises (16 applications in 2000 and 11 in 2001).

For operations related to the transit of military products outside the military echelons, ANCESIAC issued 3 permits in 2000 and 5 in 2001.

The main product categories that represented the object of such transit operations were ML 1, ML 2, ML 3, ML 4, ML 6, ML 8, ML 11 and ML 13 and the average processing time for these applications was of 4 days.

Approximately 90% of the transit operations were carried out on the Giurgiu – Curtici route. On Romanian territory, the products were transited by railway and road transportation.

### *5.3.3. Transshipment Permits*

In 2000, ANCESIAC issued no transshipment permits. In 2001, it issued only one such permit.

## **5.4 Observing the Embargoes and Other Restrictive Measures**

Romania has strictly observed the embargoes and the restrictive measures imposed on various states, organizations or fractions through the UN Security Council Resolutions, the decision of the OSCE and the EU joint actions and positions.

In 2000, the experts of the UN Monitoring Mechanism on Sanctions against UNITA (Angola) verified the way in which the Romanian authorities and companies observed the provisions of art. 19 from the UN Security Council Resolution no.

864/1993 prohibiting the arms, munitions and additional materials export to this destination.

The UN experts noted, in their 2000 Annual Report, that the Romanian authorities developed bona fide activities, observing the embargo imposed on UNITA, and, consequently, the arms shipments to UNITA from Angola's neighboring countries are not attributable to Romania.

After more thorough investigations, the same UN Monitoring Mechanism on Sanctions Against UNITA reiterated in its April 2001 Supplement to the Report from December 2000 as well as in the Report issued at the end of 2001, the same position with regard to Romania.

Considering the strategic partnership existing between Romania and certain NATO Member States, the demands for arms exports to destinations on which the partner countries imposed a unilateral embargo, were examined and approved, on a case-by-case basis, after consulting the competent authorities from the respective states.

After the terrorist attacks on September 11, 2001 against United States, Romania enhanced its control regime by including licensing mechanisms and procedures that call for the prevention and the combating of terrorist activities as a criterion in the process of assessing and authorizing the arms transfers.

#### ***5.5. Controls and Measures for Law Observance***

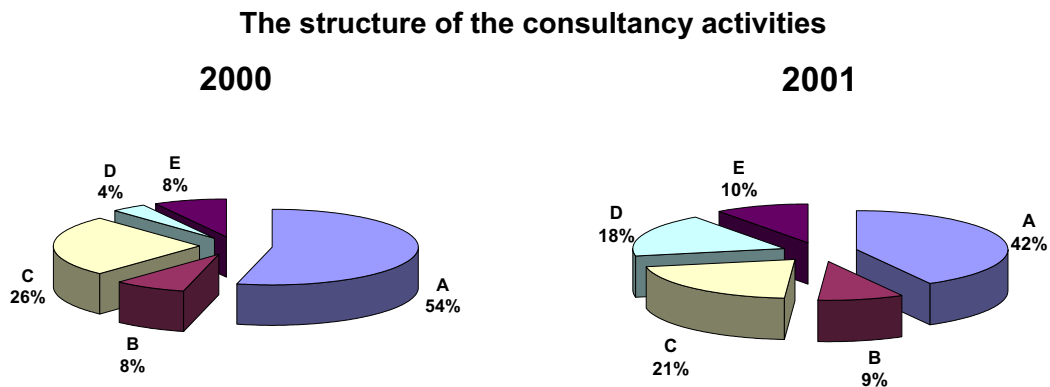
Emergency Government Ordinance no. 158/1999 took effect at the end of 1999, thus instituting new control mechanisms and procedures, and the consultancy activity developed in favor of various importing and exporting companies represented one of the main undertakings aimed at preventing the illicit arms transfers.

Consultancy in the filed of authorization and licensing of transfer operations from 2000 – 2001 was developed on a regular basis. It represented approximately 21% in 2000 and approximately 26% in 2001 from the total volume of ANCESIAC's activity, reflecting an increase of 11% and 16% respectively, compared to the annual average for the previous period (1994 – 1999).

This increase is determined by the enforcement of the control regime on new categories of operations, such as the non-commercial transit and transshipment operations and by the fact that the companies are required to hold an authorization in order to develop foreign trade operations with arms. In addition, there is a mandatory requirement to present the Delivery Control Certificate or other similar documents, as a safety measure with regard to the fact that the goods reached the official destination in compliance with the export authorization.

Figure no. 17 illustrates the repartition of the consultancy activities according to the means used in this respect.

Figure no. 17



- A = consultancy offered at ANCESIAC's headquarters
- B = consultancy offered via mail
- C = consultancy offered via e-mail
- D = consultancy offered via public means of communication
- E = consultancy offered at the head offices of the companies.

The year 2001 was characterized by an important enhancement of the segment represented by consultancy offered via public means of communication and at the head offices of the companies, as a consequence of the *Program for Transparency, Communication and Cooperation with the Economic Partners*, which used adequate means, and by a change in the structure of the control activity, which shifted from the control of documents to *in situ* controls.

Among all measures taken during the period 2000 – 2001 with a view to increasing the efficiency of the arms export control system, the cross-institutional collaboration within the preventive and reactive control actions, holds a great importance.

In 2001, ANCESIAC received 42 notifications from the competent state authorities, compared to 21 in 2000. These notifications constituted the basis on which control activities were carried out with regard to the documents held by Romanian arms exporters or importers.

Also, ANCESIAC notified various competent official bodies with information and data necessary to clarify certain foreign trade operations carried out by four Romanian companies in 2000 and by six Romanian companies in 2001.

The ANCESIAC control body carried out 12 on-site controls at the head offices of nine companies in 2001, compared to five such controls carried out at the head offices

of four companies in 2000. These controls aimed at offering consultancy and verifying the way in which the commercial operations with military goods were carried out.

The controls carried out in 2000 revealed no violations of the existing regulations and legal provisions, whereas the controls carried out in 2001 revealed three companies in breach of the existing legislation.

In 2000, four companies failed to meet their obligations with regard to presenting a Delivery Control Certificate or other similar documents, and they were sanctioned with fines amounting to a total of 160 millions ROL.

For the year 2001, one company failed to meet the same obligation and received a warning and four exporters were sanctioned with fines amounting to a total of 245 millions ROL.

## Chapter 6. Future Developments

Over the past two years, but especially in 2001, many actions have been taken to achieve the means by which maturity to a level similar to countries with long traditions in the field of national control systems can be reached by Romania before 2004.

In order to reach this objective, the following fields of action were conducted:

### 1. Legislative field:

#### 1.1 Issued a law draft which separately regulates the control of military goods exports and imports, by including the following:

- A full and efficient alignment of the national policy to the principles, norms and guidelines adopted within the international control bodies and organizations of which Romania is a member or intends to join
- Capitalizing on Romania's own experience and adapting valuable elements from other legislations to its specificity, mainly from the EU and NATO member states

#### 1.2 Developed and improved the secondary and tertiary legislation in this field, by:

- Initiating and promoting in due time the acts aimed at updating the list of end-use control military goods and enforcing, at a national level, the embargoes and the restrictive measures imposed on arms exports
- Elaborating methodological norms, mechanisms and specific procedures for the control of arms transfers
- Increasing the segment represented by the tertiary legislation (order of the President of ANCESIAC) in the legislative framework that regulates the control on arms transfers
- Administering new control fields generated by the international obligations and commitments

#### 1.3. Promoted new normative acts that should eliminate the legislative void for certain arms operations (manufacturing, domestic trade).

### 2. Inter-agency cooperation:

- Enhanced the efficiency of the national control system by strengthening the authority of ANCESIAC and by increasing the responsibility and the



contribution on the ministries and institutions in examining, formulating recommendations and taking decisions with regard to the arms transfers;

- Increased the contribution and the attributions of the Inter-ministry Council, improving its organizational structure and functioning, by elaborating a special act;
- Extended the bilateral cooperation within the national control system, enhancing and increasing the efficiency of the information exchange by bringing it at an official level (developing or signing new collaboration protocols or joint action plans);
- Increased the contribution and the attributions of the Romanian Group for Non-Proliferation in controlling the illicit trafficking of arms;
- Extended bilateral and multilateral cooperation with other state institutions or relevant bodies in the field of control regime that are not represented in the Inter-ministry Council or the Romanian Group for Non-Proliferation, and have competencies in the field of prevention and control of illicit trafficking of arms.

### 3. Government Outreach to Industry :

- Continuously promoting transparency and communication, both with economic partners and with the civil society as a whole (media, NGOs etc.)
- Permanently updating the ANCESIAC web site with data and information necessary in order to understand and observe the regulations, control mechanisms and procedures on arms transfers
- Continuing the general or specific events (conferences, seminars, round tables, working groups, public debates etc.) at a national or regional level with a view to disseminate relevant information both for the state authorities and for the arms exporters and importers
- Implementing the “Internal Control Program” at the level of the Romanian companies involved in foreign trade operations with military products
- Offering support and consultancy to NGOs or other persons or institutions interested in elaborating materials on the national control policies and practice in the field of arms exports
- Supporting the national and international events in the field of arms transfers

### 4. Enforcement of the control regime:

- Improved the analysis and decision mechanisms and procedures in the process of approval, authorizing, licensing and control and eliminating the bureaucracy in order to increase the efficiency in the foreign trade operations with arms
- Strengthened the role played by the technical and commercial expertise in the assessment of the arms export or import operations; aligning the

political interest to the economic and national security interests within the process of assessing, approving and authorizing the arms transfers

- Enhanced the role and the dimensions of the post-authorization and post-licensing control activities, especially during the post-delivery stage
- Improved and developing the operative mechanisms for cross-institutional cooperation within the control activities and creating the infrastructure necessary in order to facilitate the exchange of information in this respect
- Enhanced the role played by sanctioning mechanism in the control regime
- Disseminated the best practices promoted by the companies in the arms transfer activities
- Furthered the computerization of the authorizing, licensing and control activities developed in the field of arms transfers and creating the premises for the implementation of an integrated computerized system for the national authority
- Extended and enhancing the training of the specialized personnel and hiring new specialists in order to initiate analyses and decisions at a plural and inter-disciplinary level

#### 5. International cooperation:

- Enhanced the bilateral cooperation with similar authorities from countries with developed control systems, mainly the NATO and EU member states
- Promoted regional initiatives in the field of export control
- Offered assistance in order to create a relevant institutional and legislative framework in other countries from this region that do not have a control regime for arms exports
- Increased Romania's contribution and active participation to the development of multilateral control mechanisms for arms transfers
- Sustained, at an international and regional level, the initiatives in the field of military goods export control, prevention and combat of illicit trafficking of arms and other similar activities.

## **EU CODE OF CONDUCT ON ARMS EXPORTS**

The Council of the European Union,

BUILDING on the Common Criteria agreed at the Luxembourg and Lisbon European Councils in 1991 and 1992,

RECOGNIZING the special responsibility of arms exporting states,

DETERMINED to set high common standards which should be regarded as the minimum for the management of, and restraint in, conventional arms transfers by all EU Member States, and to strengthen the exchange of relevant information with a view to achieving greater transparency,

DETERMINED to prevent the export of equipment which might be used for internal repression or international aggression, or contribute to regional instability,

WISHING within the framework of the CFSP to reinforce their cooperation and to promote their convergence in the field of conventional arms exports,

NOTING complementary measures taken by the EU against illicit transfers, in the form of the EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms,

ACKNOWLEDGING the wish of EU Member States to maintain a defense industry as part of their industrial base as well as their defense effort,

RECOGNIZING that states have a right to transfer the means of self-defense, consistent with the right of self-defense recognized by the UN Charter,

Have adopted the following Code of Conduct and operative provisions:

### **CRITERION ONE**

Respect for the international commitments of EU member states, in particular the sanctions decreed by the UN Security Council and those decreed by the Community, agreements on non-proliferation and other subjects, as well as other international obligations

An export license should be refused if approval would be inconsistent with, inter alia:

- a) The international obligations of Member States and their commitments to enforce UN, OSCE and EU arms embargoes.
- b) The international obligations of member states under the Nuclear Non-Proliferation Treaty, the Biological and Toxin Weapons Convention and the Chemical Weapons Convention;
- c) The commitments in the frameworks of the Australia Group, the Missile Technology Control Regime, the Nuclear Suppliers Group and the Wassenaar Arrangement;
- d) The commitment not to export any form of anti-personnel landmine.

## **CRITERION TWO**

The respect of human rights in the country of final destination

Having assessed the recipient country's attitude towards relevant principles established by international human rights instruments, Member States will:

- a) Not issue an export license if there is a clear risk that the proposed export might be used for internal repression.
- b) Exercise special caution and vigilance in issuing licenses, on a case-by-case basis and taking account of the nature of the equipment, to countries where serious violations of human rights have been established by the competent bodies of the UN, the Council of Europe or by the EU;

For these purposes, equipment which might be used for internal repression will include, inter alia, equipment where there is evidence of the use of this or similar equipment for internal repression by the proposed end-user, or where there is reason to believe that the equipment will be diverted from its stated end-use or end-user and used for internal repression. In line with operative paragraph 1 of this Code, the nature of the equipment will be considered carefully, particularly if it is intended for internal security purposes.

Internal repression includes, inter alia, torture and other cruel, inhuman and degrading treatment or punishment, summary or arbitrary executions, disappearances, arbitrary detentions and other major violations of human rights and fundamental freedoms as set out in relevant international human rights instruments, including the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights.

## **CRITERION THREE**

The internal situation in the country of final destination, as a function of the existence of tensions or armed conflicts

Member States will not allow exports, which would provoke or prolong armed conflicts or aggravate existing tensions or conflicts in the country of final destination.

## **CRITERION FOUR**

Preservation of regional peace, security and stability

Member States will not issue an export license if there is a clear risk that the intended recipient would use the proposed export aggressively against another country or to assert by force a territorial claim.

When considering these risks, EU Member States will take into account inter alia:

- a) The existence or likelihood of armed conflict between the recipient and another country;
- b) A claim against the territory of a neighboring country which the recipient has in the past tried or threatened to pursue by means of force;
- c) Whether the equipment would be likely to be used other than for the legitimate national security and defense of the recipient;
- d) The need not to affect adversely regional stability in any significant way.

## **CRITERION FIVE**

The national security of the member states and of territories whose external relations are the responsibility of a Member State, as well as that of friendly and allied countries

Member States will take into account:

- a) The potential effect of the proposed export on their defense and security interests and those of friends, allies and other member states, while recognizing that this factor cannot affect consideration of the criteria on respect of human rights and on regional peace, security and stability;
- b) The risk of use of the goods concerned against their forces or those of friends, allies or other member states;
- c) The risk of reverses engineering or unintended technology transfer.

## **CRITERION SIX**

The behavior of the buyer country with regards to the international community, as regards in particular to its attitude to terrorism, the nature of its alliances and respect for international law

Member States will take into account inter alia the record of the buyer country with regard to:

- a) Its support or encouragement of terrorism and international organized crime;

b) Its compliance with its international commitments, in particular on the non-use of force, including under international humanitarian law applicable to international and non-international conflicts;

c) Its commitment to non-proliferation and other areas of arms control and disarmament, in particular the signature, ratification and implementation of relevant arms control and disarmament conventions referred to in sub-para b) of Criterion One.

## **CRITERION SEVEN**

The existence of a risk that the equipment will be diverted within the buyer country or re-exported under undesirable conditions

In assessing the impact of the proposed export on the importing country and the risk that exported goods might be diverted to an undesirable end-user, the following will be considered:

a) The legitimate defense and domestic security interests of the recipient country, including any involvement in UN or other peacekeeping activity;

b) The technical capability of the recipient country to use the equipment;

c) The capability of the recipient country to exert effective export controls;

d) The risk of the arms being re-exported or diverted to terrorist organizations (anti-terrorist equipment would need particularly careful consideration in this context).

## **CRITERION EIGHT**

The compatibility of the arms exports with the technical and economic capacity of the recipient country, taking into account the desirability that states should achieve their legitimate needs of security and defense with the least diversion for armaments of human and economic resources

Member States will take into account, in the light of information from relevant sources such as UNDP, World Bank, IMF and OECD reports, whether the proposed export would seriously hamper the sustainable development of the recipient country. They will consider in this context the recipient country's relative levels of military and social expenditure, taking into account also any EU or bilateral aid.

## **LIST OF ARMAMENTS, MUNITIONS AND OTHER MILITARY GOODS**

Note 1: *Terms in "quotations" are defined terms. Refer to 'Definitions of Terms used in these Lists' annexed to this List.*

Note 2: *CAS numbers are shown as examples. They do not cover all the chemicals and mixtures controlled by the Munitions List and other military goods*

Note 3: *The goods mentioned in the Annex include also new and used goods.*

### **GENERAL TECHNOLOGY NOTE**

The export of "technology" which is "required" for the "development", "production" or "use" of items controlled in the Munitions List is controlled according to the provisions in the Munitions List entries. This "technology" remains under control even when applicable to any uncontrolled item.

Controls do not apply to that "technology" which is the minimum necessary for the installation, operation, maintenance (checking) and repair of those items which are not controlled or whose export has been authorized.

Controls do not apply to "technology" "in the public domain", to "basic scientific research" or to the minimum necessary information for patent applications.

**ML1. Arms and automatic weapons with a caliber of 12.7 mm (caliber 0.50 inches) or less and accessories, as follows, and specially designed components therefore:**

- a. Rifles, carbines, revolvers, pistols, machine pistols and machine guns:

*Note: ML1.a. Does not control the following:*

1. Muskets, rifles and carbines manufactured earlier than 1938;
2. Reproductions of muskets, rifles and carbines the originals of which were manufactured earlier than 1890;
3. Revolvers, pistols and machine guns manufactured earlier than 1890, and their reproductions;

- b. Smooth-bore weapons specially designed for military use;

- c. Weapons using caseless ammunition;

- d. Silencers, special gun-mountings, clips, weapons sights and flash suppressers for arms controlled by sub-items ML1.a. ML1.b. or ML1.c.

**Technical Note:**

*Smooth-bore weapons specially designed for military use as specified in ML1.b. are those which:*

- a. Are proof tested at pressures above 1,300 bars;
- b. Operate normally and safely at pressures above 1,000 bars; and
- c. Are capable of accepting ammunition above 76.2 mm in length (e.g., commercial 12-gauge magnum shot gun shells).

*The parameters in this Technical Note are to be measured according to the standards of the Commission Internationale Permanente.*

*Note 1: ML1. Does not control smoothbore weapons used for hunting or sporting purposes. These weapons must not be specially designed for military use or of the fully automatic firing type.*

*Note 2: ML1. Does not control firearms specially designed for dummy ammunition and which are incapable of firing any controlled ammunition.*

*Note 3: ML1. Do not control weapons using non-centre fire cased ammunition and which are not of the fully automatic firing type.*

**ML2. Armament or weapons with a caliber greater than 12.7 mm (caliber 0.50 inches), projectors and accessories, as follows, and specially designed components therefore:**

- a. Guns, howitzers, cannon, mortars, anti-tank weapons, projectile launchers, military flame throwers, recoilless rifles and signature reduction devices therefore;



Note: ML2.a. Includes injectors, metering devices, storage tanks and other specially designed components for use with liquid propelling charges for any of the equipment controlled by ML2.a.

b. Military smoke, gas and pyrotechnic projectors or generators.

Note: ML2.b. does not control signal pistols.

c. Weapons sights.

**ML3. Ammunition, and specially designed components therefore, for the weapons controlled by ML1., ML2. or ML12.**

Note 1: Specially designed components include:

- a. Metal or plastic fabrications such as primer anvils, bullet cups, cartridge links, rotating bands and munitions metal parts;
- b. Safing and arming devices, fuses, sensors and initiation devices;
- c. Power supplies with high one-time operational output;
- d. Combustible cases for charges;
- e. Sub-munitions including bomblets, minelets and terminally guided projectiles.

Note 2: ML3. Does not control ammunition crimped without a projectile (blank star) and dummy ammunition with a pierced powder chamber.

Note 3: ML3. Does not control cartridges specially designed for any of the following purposes:

- a. Signaling;
- b. Bird scaring; or
- c. Lighting of gas flares at oil wells.

**ML4. Bombs, torpedoes, rockets, missiles, other explosive devices and charges and related equipment and accessories, as follows, specially designed for military use, and specially designed components therefore:**

a. Bombs, torpedoes, grenades, smoke canisters, rockets, mines, missiles, depth charges, demolition-charges, demolition-devices and demolition-kits, "pyrotechnic" devices, cartridges and simulators (i.e. equipment simulating the characteristics of any of these items);

Note: ML4.a. Includes:

1. Smoke grenades, firebombs, incendiary bombs and explosive devices;
2. Missile rocket nozzles and re-entry vehicle nose tips.

b. Equipment specially designed for the handling, control, activation, powering with one-time operational output, launching, laying, sweeping, discharging, decoying, jamming, detonation or detection of items controlled by ML4.a.

Note: ML4.b. includes:

1. Mobile gas liquefying equipment capable of producing 1,000 kg or more per day of gas in liquid form;
2. Buoyant electric conducting cable suitable for sweeping magnetic mines.

Technical Note:

*Hand-held devices, limited by design solely to the detection of metal objects and incapable of distinguishing between mines and other metal objects, which are not considered to be specially designed for the detection of items controlled by ML4.a.*

**ML5. Fire control, and related alerting and warning equipment, and related systems, test and alignment and countermeasure equipment, as follows, specially designed for military use, and specially designed components and accessories therefore:**

- a. Weapon sights, bombing computers, gun laying equipment and weapon control systems;
- b. Target acquisition, designation, range-finding, surveillance or tracking systems; detection, data fusion, recognition or identification equipment; and sensor integration equipment;

Note: *ML5.b. includes observation and detection satellites specially design for military use, as well as their ground stations, with the exception of their dual-use components.*

- c. Countermeasure equipment for items controlled by ML5.a. or ML5.b.
- d. Field test or alignment equipment, specially designed for items controlled by ML5.a. or ML5.b

**ML6. Ground vehicles and components therefor specially designed or modified for military use.**

Technical Note:

*For the purposes of ML6. the term ground vehicles includes trailers.*

Note 1: *ML6.: includes:*

- a. *Tanks and other military armed vehicles and military vehicles fitted with mountings for arms or equipment for mine laying or the launching of munitions controlled under ML4;*
- b. *Armored vehicles;*
- c. *Amphibious and deep water fording vehicles;*
- d. *Recovery vehicles and vehicles for towing or transporting ammunition or weapon systems and associated load handling equipment.*

Note 2: *Modification of a ground vehicle for military use entails a structural, electrical or mechanical change involving one or more specially designed military components. Such components include:*

- a. *Pneumatic tire casings of a kind specially designed to be bulletproof or to run when deflated;*
- b. *Tire inflation pressure control systems, operated from inside a moving vehicle;*
- c. *Armored protection of vital parts, (e.g., fuel tanks or vehicle cabs);*
- d. *Special reinforcements for mountings for weapons.*

Note 3: ML6. does not control civil automobiles or trucks designed for transporting money or valuables, having armored protection.

**ML7. Chemical or biological toxic agents, "tear gases", radioactive materials, related equipment, components, materials and "technology" as follows:**

a. Biological agents and radioactive materials "adapted for use in war" to produce casualties in humans or animals, degrade equipment or damage crops or the environment, and chemical warfare (CW) agents;

b. CW binary precursors and key precursors, as follows:

1. Alkyl (Methyl, Ethyl, n-Propyl or Isopropyl Phosphonyl Difluorides, such as: DF: Methyl Phosphonyldifluoride (CAS 676-99-3);
2. O-Alkyl (H or equal to or less than C 10 , including cycloalkyl) O-2-dialkyl (Methyl, Ethyl, n-Propyl or Isopropyl) aminoethyl alkyl (Methyl, Ethyl, n-Propyl or Isopropyl) phosphonite and corresponding alkylated and protonated salts, such as: QL: O-Ethyl-2-di-isopropylaminoethyl methylphosphonite (CAS 57856-11-8);
3. Chlorosarin: O-Isopropyl methylphosphonochloridate (CAS 1445-76-7);
4. Chlorosoman: O-Pinakolyl methylphosphonochloridate (CAS 7040-57-5);

c. "Tear gases" and "riot control agents" including:

1. Bromobenzyl cyanide (CA) (CAS 5798-79-8);
2. O-Chlorobenzylidenemalononitrile (o-Chlorobenzalmalononitrile) (CS) (CAS 2698-41-1);
3. Phenylacyl chloride (w-chloroacetophenone) (CN) (CAS 532-27-4)
4. Dibenz-(b,f)-1,4-oxazephine (CR) (CAS 257-07-8);

d. Equipment specially designed or modified for the dissemination of any of the following and specially designed components therefor:

1. Materials or agents controlled by ML7.a. or c.; or
2. CW made up of precursors controlled by ML7.b.

e. Equipment specially designed for defence against materials controlled by ML7.a. or c. and specially designed components therefor;

Note ML7.e.: includes protective clothing.

f. Equipment specially designed for the detection or identification of materials controlled by ML7.a. or c. and specially designed components therefor;

Note: ML7.f. does not control personal radiation monitoring dosimeters.

N.B.: For civil gas masks and protective equipment see also entry 1.A.4. on the Dual-Use List

g. "Biopolymers" specially designed or processed for the detection or identification of CW agents controlled by ML7.a., and the cultures of specific cells used to produce them;

h. "Biocatalysts" for the decontamination or degradation of CW agents, and biological systems therefor, as follows:

1. "Biocatalysts" specially designed for the decontamination or degradation of CW agents controlled by ML7.a. resulting from

directed laboratory selection or genetic manipulation of biological systems;

2. Biological systems, as follows: "expression vectors", viruses or cultures of cells containing the genetic information specific to the production of "biocatalysts" controlled by ML7.h.1.;

i. "Technology" as follows:

1. "Technology" for the "development", "production" or "use" of toxicological agents, related equipment or components controlled by ML7.a. to ML7.f.;
2. "Technology" for the "development", "production" or "use" of "biopolymers" or cultures of specific cells controlled by ML7.g.;
3. "Technology" exclusively for the incorporation of "biocatalysts", controlled by ML7.h.1., into military carrier substances or military material.

Note 1: ML7.a. includes the following:

a. CW nerve agents:

1. O-Alkyl (equal to or less than C 10 , including cycloalkyl) alkyl (Methyl, Ethyl, n-Propyl or Isopropyl) - phosphonofluoridates, such as:

Sarin (GB):O-Isopropyl methylphosphonofluoridate (CAS 107- 44-8);  
and

Soman (GD):O-Pinacolyl methylphosphonofluoridate (CAS 96- 64-0);

2. O-Alkyl (equal to or less than C 10 , including cycloalkyl) N,N-dialkyl (Methyl, Ethyl, n-Propyl or Isopropyl) phosphoramidocyanidates, such as:

Tabun (GA): O-Ethyl N,N-dimethylphosphoramidocyanidate (CAS 77- 81-6);

3. O-Alkyl (H or equal to or less than C 10 , including cycloalkyl) S-2-dialkyl (Methyl, Ethyl, n-Propyl or Isopropyl)-aminoethyl alkyl (Methyl, Ethyl, n-Propyl or Isopropyl) phosphonothiolates and corresponding alkylated and protonated salts, such as:

VX: O-Ethyl S-2-diisopropylaminoethyl methyl phosphonothiolate (CAS 50782-69-9)

b. CW vesicant agents:

1. Sulphur mustards, such as:

2-Chloroethylchloromethylsulphide (CAS 2625-76-5);

Bis(2-chloroethyl) sulphide (CAS 505-60-2);

Bis(2-chloroethylthio) methane (CAS 63869-13-6);

1,2-bis (2-chloroethylthio) ethane (CAS 3563-36-8);

1,3-bis (2-chloroethylthio) -n-propane (CAS 63905-10-2);

1,4-bis (2-chloroethylthio) -n-butane(CAS 142868-93-7);;

1,5-bis (2-chloroethylthio) -n-pentane;(CAS 142868-94-8

Bis (2-chloroethylthiomethyl) ether;(CAS 63918-90-1);

Bis (2-chloroethylthioethyl) ether (CAS 63918-89-8);

2. Lewisites, such as:

2-chlorovinylchloroarsine (CAS 541-25-3);

Tris (2-chlorovinyl) arsine (CAS 40334-70-1);

*Bis (2-chlorovinyl) chloroarsine (CAS 40334-69-8);*

3. Nitrogen mustards, such as:

*HN1: bis (2-chloroethyl) ethylamine (CAS 538-07-8);*

*HN2: bis (2-chloroethyl) methylamine (CAS 51-75-2);*

*HN3: tris (2-chloroethyl) amine (CAS 555-77-1);*

c. CW incapacitating agents such as:

*3-Quinuclidinyl benzilate (BZ) (CAS 6581-06-2);*

d. CW defoliants such as:

*1. Butyl 2-chloro-4-fluorophenoxyacetate (LNF);*

*2. 2,4,5-trichlorophenoxyacetic acid mixed with 2,4-dichlorophenoxyacetic acid (Agent Orange).*

Note 2: *ML7.e. includes air conditioning units specially designed or modified for nuclear, biological or chemical filtration.*

Note 3: *ML7.a. and ML7.c. do not control:*

*a. Cyanogen chloride (CAS 506-77-4);*

*b. Hydrocyanic acid (CAS 74-90-8);*

*c. Chlorine (CAS 7782-50-5);*

*d. Carbonyl chloride (phosgene) (CAS 75-44-5);*

*e. Diphosgene (trichloromethyl-chloroformate) (CAS 503-38-8);*

*f. Ethyl bromoacetate (CAS 105-36-2);*

*g. Xylyl bromide, ortho: (CAS 89-92-9), meta: (CAS 620-13-3), para: (CAS 104-81-4);*

*h. Benzyl bromide (CAS 100-39-0);*

*i. Benzyl iodide (CAS 620-05-3);*

*j. Bromo acetone (CAS 598-31-2);*

*k. Cyanogen bromide (CAS 506-68-3);*

*l. Bromo methylethylketone (CAS 816-40-0);*

*m. Chloro acetone (CAS 78-95-5);*

*n. Ethyl iodoacetate (CAS 623-48-3);*

*o. Iodo acetone (CAS 3019-04-3);*

*p. Chloropicrin (CAS 76-06-2).*

Note 4: *The "technology", cultures of cells and biological systems listed in ML7.g., ML7.h.2. and ML7.i.3. are exclusive and these sub-items do not control "technology", cells or biological systems for civil purposes, such as: agricultural, pharmaceutical, medical, veterinary, environmental, waste management, or in the food industry.*

Note 5: *ML7.c. does not control tear gases or riot control agents individually packaged for personal self-defense purposes.*

Note 6: *ML7.d., ML7.e. and ML7.f. control equipment specially designed or modified for military purposes.*

N.B.: *See also entry 1.A.004. on the Dual-Use List.*

**ML8. "Military explosives" and fuels, including propellants, and related substances, as follows:**

a. Substances, as follows, and mixtures thereof:

1. Spherical aluminum powder (CAS 7429-90-5) with particular size of 60  $\mu\text{m}$  or less, manufactured from material with an aluminum content of 99% or more;
2. Metal fuels in particle form whether spherical, atomized, spheroidal, flaked or ground, manufactured from material consisting of 99% or more of any of the following:
  - a. Metals and mixtures thereof:
    1. Beryllium (CAS 7440-41-7) in particle sizes of less than 60  $\mu\text{m}$ ;
    2. Iron powder (CAS 7439-89-6) with particle size of 3  $\mu\text{m}$  or less produced by reduction of iron oxide with hydrogen;
  - b. Mixtures, which contain any of the following:
    1. Zirconium (CAS 7440-67-7), magnesium (CAS 7439-95-4) and alloys of these in particle sizes of less than 60  $\mu\text{m}$ ;
    2. Boron (CAS 7440-42-8) or boron carbide (CAS 12069-32-8) fuels of 85% purity or higher and particle sizes of less than 60  $\mu\text{m}$ ;
3. Perchlorates, chlorates and chromates composited with powdered metal or other higher energy fuel components;
4. Nitroguanidine (CAS 556-88-7);
5. Compounds composed of fluorine and any of the following: other halogens, oxygen, nitrogen;
6. Carboranes; decaboranes (CAS 17702-41-9); pentaborane and derivatives thereof;
7. Cyclotetramethylenetetranitramine (CAS 2691-41-0) (HMX); octahydro-1,3,5,7-tetranitro-1,3,5,7-tetrazine; 1,3,5,7-tetranitro-1,3,5,7-tetraza-cyclooctane; (octogen, octogene),
8. Hexanitrostilbene (HNS) (CAS 20062-22-0);
9. Diaminotrinitrobenzene (DATB) (CAS 1630-08-6);
10. Triaminotrinitrobenzene (TATB) (CAS 3058-38-6);
11. Triaminoguanidinenitrate (TAGN) (CAS 4000-16-2);
12. Titanium subhydride of stoichiometry  $\text{TiH } 0.65\text{-}1.68$ ;
13. Dinitroglycoluril (DNGU, DINGU) (CAS 55510-04-8); tetranitroglycoluril (TNGU, SORGUYL) (CAS 55510-03-7);
14. Tetranitrobenzotriazolobenzotriazole (TACOT) (CAS 25243-36-1);
15. Diaminohexanitrobiphenyl (DIPAM) (CAS 17215-44-0);
16. Picrylaminodinitropyridine (PYX) (CAS 38082-89-2);
17. 3-nitro-1,2,4-triazol-5-one (NTO or ONTA) (CAS 932-64-9);
18. Hydrazine (CAS 302-01-2) in concentrations of 70% or more; hydrazine nitrate (CAS 37836-27-4); hydrazine perchlorate (CAS 27978-54-7); unsymmetrical dimethyl hydrazine (CAS 57-14-7); monomethyl (CAS 60-34-4) hydrazine; symmetrical dimethyl hydrazine (CAS 540-73-8);
19. Ammonium perchlorate (CAS 7790-98-9);
20. Cyclotrimethylenetrinitramine (RDX) (CAS 121-82-4); cyclonite; T4; hexahydro-1,3,5-trinitro-1,3,5-triazine; 1,3,5-trinitro-1,3,5-triaza-cyclohexane (hexogen, hexogene);

21. Hydroxylammonium nitrate (HAN) (CAS 13465-08-2); hydroxylammonium perchlorate (HAP) (CAS 15588-62-2);
  22. 2-(5-cyanotetrazolato) penta amine-cobalt (III) perchlorate (or CP) (CAS 70247-32-4);
  23. cis-bis (5-nitrotetrazolato) tetra amine-cobalt (III) perchlorate (or BNCP);
  24. 7-Amino-4,6-dinitrobenzofurazane-1-oxide (ADNBF) (CAS 97096-78-1);
  25. 5,7-diamino-4,6-dinitrobenzofurazane-1-oxide (CAS 117907-74-1), (CL-14 or diamino dinitrobenzofuraxan);
  26. 2,4,6-trinitro-2,4,6-triazacyclohexanone (k-6 or Keto-RDX) (CAS 115029-35-1);
  27. 2,4,6,8-tetranitro-2,4,6,8-tetraazabicyclo[3,3,0]-octanone-3 (CAS 130256-72-3) (tetranitrosemiglycouril, K-55 or keto bicyclic HMX);
  28. 1,1,3-trinitroazetidine (TNAZ) (CAS 97645-24-4);
  29. 1,4,5,8-tetranitro-1,4,5,8-tetraazadecalin (TNAD) (CAS 135877-16-6);
  30. Hexanitrohexeazaisowurtzitane (CAS 135285-90-4) (CL-20 or HNIW); and chlathrates of CL-20;
  31. Polynitrocubanes with more than nitro groups;
  32. Ammonium dinitramide (AND or SR 12) (CAS 140456-78-6);
  33. Trinitrophenylmethylnitramide (tetryl) (CAS 479-45-8);
- b. Explosives and propellants that meet the following performance parameters:
1. Any explosive with detonation velocity exceeding 8,700 m/s or a detonation pressure exceeding 34 GPa (340 kbar);
  2. Other organic explosives not listed in ML8. yielding detonation pressures of 25 GPa (250 kbar) or more that will remain stable at temperatures of 523 K (250°C) or higher for period of 5 minutes or longer;
  3. Any United Nations (UN) Class 1.1 solid "propellant" with a theoretical specific impulse (under standard conditions) of more than 250 seconds for non-metallized, or more than 270 seconds for aluminized compositions;
  4. Any UN Class 1.3 solid "propellant" with a theoretical specific impulse (under standard conditions) of more than 230 seconds for non-halogenized, 250 seconds for non-metallized compositions and 266 seconds for metallized compositions;
  5. Any other gun propellants not listed in ML8. having force constant of more than 1,200 kJ/kg;
  6. Any other explosives, propellant or pyrotechnic not listed ML8. that can sustain a steady-state burning rate of more than 38 mm/s under standard conditions of 6.89 Mpa (68.9 bar) pressure and 394 K (21°C); or
  7. Elastomer modified cast double based propellants (EMCDB) with extensibility at maximum stress of more than 5% at 233 K (-40°C);
- c. "Military pyrotechnics";
- d. Other substances, as follows:
1. Aircraft fuels specially formulated for military purposes;

2. Military materials containing thickeners for hydrocarbon fuels specially formulated for use in flame throwers or incendiary munitions, such as metal stearates or palmates (e.g. octal (CAS 637-12-7)) and M1, M2, and M3 thickeners;
  3. Liquid oxidisers comprised of or containing inhibited red fuming nitric acid (IRFNA) (CAS 8007-58-7) or oxygen difluoride;
- e. "Additives" and "precursors", as follows:
1. Azidomethyloxetane (AMMO) and its polymers;
  2. Basic copper salicylate (CAS 62320-94-9; lead salicylate (CAS 15748-73-9));
  3. Bis(2,2-dinitropropyl) formal (CAS 5917-61-3) or Bis(2,2-dinitropropyl) acetal (CAS 5108-69-0);
  4. Bis-(2-fluoro-2,2-dinitroethyl) formal (FEFO) (CAS 17003-79-1);
  5. Bis-(2-hydroxyethyl)glycolamide (BHEGA) (CAS 17409-41-5);
  6. Bis(2-methyl aziridinyl) methyllamino phosphine oxide (Methyl BAPO0 (CAS 85068-72-0);
  7. Bisazidomethyloxetane and its polymers (CAS 17607-20-4);
  8. Bischloromethyloxetane (BCMO) (CAS 142173-26-0);
  9. Butadienenitrileoxide (BNO);
  10. Butanetrioltrinitrate (BTTN) (CAS 6659-60-5);
  11. Catocene (CAS 37206-42-1) (2,2-Bis-ethylferrocenyl propane); ferrocene carboxylic acids; N-butyl-ferrocene (CAS 319904-29-7); butacene (CAS 125856-62-4) and other adducted polymer ferrocene derivatives;
  12. Dinitroazetidine-t-butyl salt;
  13. Energetic monomers, plasticisers and polymers containing nitro, azido, nitrate, nitraza or difluoroamino groups;
  14. Poly-2,2,3,3,4,4-hexafluoropentane-1,5-diol formal (FPF-1);
  15. Poly-2,4,4,5,5,6,6-heptafluoro-2-tri-fluoromethyl-3-oxaheptane-1,17-diol formal (FPF-3);
  16. Glycidylazide Polymer (GAP) (CAS 143178-24-9) and its derivatives;
  17. Hexabenzylhexaazaisowurtzitane (HBIW) (CAS 124782-15-6);
  18. Hydroxyl terminated polybutadiene (HTPB) with hydroxyl functionality equal to or greater than 2.2 and less than or equal to 2.4, a hydroxyl value of less than 0.77 meq/g and a viscosity at 30°C of less than 47 poise (CAS 69102-90-5);
  19. Superfine iron oxide ( $\text{Fe}_2\text{O}_3$  hematite) with specific surface area more than 250  $\text{m}^2/\text{g}$  and an average particle size of 0.003  $\mu\text{m}$  (CAS 1309-37-1);
  20. lead beta-resorcyate (CAS 20936-32-7);
  21. Lead stannate (CAS 12036-31-6), lead maleate (CAS 19136-34-6), lead citrate (CAS 14450-60-3);
  22. Lead-copper chelates of beta-resorcyate or salicylates (CAS 68411-07-4);



23. Nitratomethylmethyloxetan or poly (3-Nitratomethyl, 3-methyl oxetane); (Poly\_NIMMO) (NMMO) (CAS 84051-81-0);
24. 3-nitrazo-1,5-pentane diisocyanate (CAS 7406-61-9);
25. N-Methyl-p-Nitroaniline (CAS 100-15-2);
26. Organo-metallic coupling agents, specifically:
  - a. neopentyl[diallyl]oxy, tri[diethyl]phosphato titanate (CAS 103850-22-2); also known as titanium IV, 2,2[bis 2-propenolato-methyl, butanolato, tris(diethyl)phosphato] (CAS 110438-25-0); or LICA 12 (CAS 103850-22-2);
  - b. Titanium IV, [(2-propenolato-1)methyl, n-propanolatomethyl] butanolato-1, tris[diethyl]pyrophosphate; or KR3538;
  - c. Titanium IV, [(2-propenolato-1)methyl, n-propanolatomethyl] butanolato-1, tris(diethyl)phosphate;
27. Polycyanodifluoroaminoethylenoxide (PCDE);
28. Polyfunctional aziridine amides with isophthalic, trimesic (BITA or butylenes imine trimesamide), isocyanuric or trimethyladipic backbone structures and 2- methyl or 2-ethyl substitutions on the aziridine ring;
29. polyglycidynitrate or poly (nitratomethyl oxirane); (Poly-GLYN) (PGN) (CAS 27814-48-8);
30. Polynitroorthocarbonates;
31. Propyleneimine, 2-methylaziridine (CAS 75-55-8);
32. Tetraacetyldibenzylhexaazaisowurtzitane (TAIW);
33. Tetraethylenepentaamineacrylonitrile (TEPAN) (CAS 68412-45-3); cyanoethylated polyamines and their salts;
34. Tetraethylenepentaamineacrylonitrileglycidol (TEPANOL) (CAS 68412-46-4); cyanoethylated polyamines adducted with glycidol and their salts;
35. Triphenyl bismuth (TPB) (CAS 603-33-8);
36. Tris-1-(2-methyl)aziridinyl phosphine oxide (MAPO) (CAS 57-39-6); bis (2-methyl aziridinyl) 2-(hydroxypropanoxy) propylamino phosphine oxide (BOBBA 8); and other MAPO derivatives;
37. 1,2,3-Tris[1,2-bis(difluoroamino)ethoxy]propane (CAS 53159-39-0); tris vinoxyl propane adduct (TVOPA);
38. 1,3,5-trichlorobenzene (CAS 108-70-3);
39. 1,2,4-trihydroxybutane (1,2,4-butanetriol);
40. 1,3,5,7 tetraacetyl-1,3,5,7,-tetraaza cyclo-octane (TAT) (CAS 41378-98-7);
41. 1,4,5,8-Tetraazadecalin (CAS 5409-42-7);
42. Low (less than 10,00) molecular weight, alcohol-functionalised, poly(epichlorohydrin); poly(epichlorohydrindiol) and triol.

**Note 1:** *The military explosives and fuels containing the metals or alloys listed in ML8.a.1. and ML8.a.2. are controlled whether or not the metals or alloys are encapsulated in aluminum, magnesium, zirconium or beryllium.*

See also entry 1.C.011 on the Dual-Use List.

Note 2: ML8. does not control boron and boron carbide enriched with boron-10(20% or more of total boron-10 content).

Note 3: Aircraft fuels controlled by ML8.d.1. are finished products not their constituents.

Note 4: ML8. does not control perforators specially designed for oil well logging.

Note 5: ML8. does not control the following substances unless they are compounded or mixed with military explosives or powdered metals:

- a. Ammonium picrate;
- b. Black powder;
- c. Hexanitrodiphenylamine;
- d. Difluoroamine; (HNF<sub>2</sub>)
- e. Nitrostarch;
- f. Potassium nitrate;
- g. Tetranitronaphthalene;
- h. Trinitroanisol;
- i. Trinitronaphthalene;
- j. Trinitroxylene;
- k. Fuming nitric acid non-inhibited and not enriched;
- l. Acetylene;
- m. Propane;
- n. Liquid oxygen;
- o. Hydrogen peroxide in concentrations of less than 85%;
- p. Misch metal;
- q. N-pyrrolidinone; 1-methyl-2-pyrrolidinone;
- r. Dioctylmaleate;
- s. Ethylhexylacrylate;
- t. Triethylaluminium (TEA), trimethylaluminium (TMA), and other pyrophoric metal alkyls and aryls of lithium, sodium, magnesium, zinc or boron;
- u. Nitrocellulose;
- v. Nitroglycerin (or glyceroltrinitrate, trinitroglycerine) (NG);
- w. 2,4,6-trinitrotoluene (TNT);
- x. Ethylenediaminedinitrate (EDDN);
- y. Pentaerythritoltetranitrate (PETN);
- aa. Lead azide, normal and basic lead styphnate, and primary explosives or priming compositions containing azides or azide complexes;
- bb. Triethyleneglycoldinitrate (TEGDN);
- cc. 2,4,6-trinitroresorcinol (styphnic acid);
- dd. Diethyldiphenyl urea; dimethyldiphenyl urea; methylethyldiphenyl urea [Centralites];
- ee. N,N-diphenylurea (unsymmetrical diphenylurea);
- ff. Methyl-N,N-diphenylurea (methyl unsymmetrical diphenylurea);
- gg. Ethyl-N,N-diphenylurea (ethyl unsymmetrical diphenylurea);
- hh. 2-Nitrodiphenylamine (2-NDPA);
- ii. 4-Nitrodiphenylamine (4-NDPA);
- jj. 2,2-dinitropropanol;
- kk. Chlorine trifluoride.

**ML9. Vessels of war, special naval equipment and accessories, as follows, and components therefore, specially designed for military use:**

- a. Combatant vessels and vessels (surface or underwater) specially designed or modified for offensive or defensive action, whether or not converted to non-military use, regardless of current state of repair or operating condition, and whether or not they contain weapon delivery systems or armors, and hulls or parts of hulls for such vessels;
- b. Engines, as follows:
  - 1. Diesel engines specially designed for submarines with both of the following characteristics:
    - a. A power output of 1.12 MW (1,500 hp.) or more; and
    - b. A rotary speed of 700 rpm or more;
  - 2. Electric motors specially designed for submarines having all of the following characteristics:
    - a. A power output has more than 0.75 MW (1,000 hp.);
    - b. Quick reversing;
    - c. Liquid cooled; and
    - d. Totally enclosed;
  - 3. Non-magnetic diesel engines specially designed for military use with a power output of 37.3 kW (50 hp.) or more and with a non-magnetic content in excess of 75% of total mass;
  - 4. Independent power air supplying systems, specially designed for submarines;
- c. Underwater detection devices specially designed for military use and controls thereof;
- d. Submarine and torpedo nets;
- e. Equipment for guidance and navigation specially designed for military use;
- f. Hull penetrators and connectors specially designed for military use that enable interaction with equipment external to a vessel;
 

*Note :ML9.f. includes connectors for vessels which are of the single-conductor, multi-conductor, coaxial or waveguide type, and hull penetrators for vessels, both of which are capable of remaining impervious to leakage from without and of retaining required characteristics at marine depths exceeding 100 m; and fibre-optic connectors and optical hull penetrators specially designed for "laser" beam transmission regardless of depth. It does not include ordinary propulsive shaft and hydrodynamic control-rod hull penetrators.*
- g. Silent bearings, with gas or magnetic suspension, active signature or vibration suppression controls, and equipment containing those bearings, specially designed for military use.

**ML10. "Aircraft", unmanned airborne vehicles, aero-engines and "aircraft" equipment, related equipment and components, specially designed or modified for military use, as follows:**

- a. Combat "aircraft" and specially designed components therefore;

- b. Other "aircraft" specially designed or modified for military use, including military reconnaissance, assault, military training, transporting and airdropping troops or military equipment, logistics support, and specially designed components therefore;
- c. Aero-engines specially designed or modified for military use, and specially designed components therefore;
- d. Unmanned airborne vehicles and related equipment, specially designed or modified for military use, as follows, and specially designed components therefore:
  - 1. Unmanned airborne vehicles including remotely piloted air vehicles (RPVs) and autonomous programmable vehicles;
  - 2. Associated launchers and ground support equipment;
  - 3. Related equipment for command and control.
- e. Airborne equipment, including airborne refueling equipment, specially designed for use with the "aircraft" controlled by ML10.a. or ML10.b. or the aero-engines controlled by ML10.d., and specially designed components therefore;
- f. Pressure refuellers, pressure refueling equipment, equipment specially designed to facilitate operations in confined areas and ground equipment, developed specially for "aircraft" controlled by ML10.a. or ML10.b., or for aero-engines controlled by ML10.d.;
- g. Pressurized breathing equipment and partial pressure suits for use in "aircraft", anti-g suits, military crash helmets and protective masks, liquid oxygen converters used for "aircraft" or missiles, and catapults and cartridge actuated devices for emergency escape of personnel from "aircraft";
- h. Parachutes and related equipment, used for combat personnel, cargo dropping or "aircraft" deceleration, as follows:
  - 1. Parachutes for:
    - a. Pin point dropping of rangers;
    - b. Dropping of paratroopers;
  - 2. Cargo parachutes;
  - 3. Paragliders, drag parachutes, drogue parachutes for stabilization and attitude control of dropping bodies, (e.g. recovery capsules, ejection seats, bombs);
  - 4. Drogue parachutes for use with ejection seat systems for deployment and inflation sequence regulation of emergency parachutes;
  - 5. Recovery parachutes for guided missiles, drones or space vehicles;
  - 6. Approach parachutes and landing deceleration parachutes;
  - 7. Other military parachutes;
- i. Automatic piloting systems for parachuted loads; equipment specially designed or modified for military use for controlled opening g jumps at any height, including oxygen equipment.

Note 1: ML10.b. does not control "aircraft" or variants of those "aircraft" specially designed for military use which:

- a. Are not configured for military use and are not fitted with equipment or attachments specially designed or modified for military use; and
- b. Have been certified for civil use by the civil aviation authority in a participating state.

Note 2: ML10.c. does not control:

- a. Aero-engines designed or modified for military use, which have been certified by civil aviation authorities in a participating state for use in "civil aircraft", or specially designed components therefore;
- b. Reciprocating engines or specially designed components therefore, except those specially designed for unmanned airborne vehicles.

Note 3: The control in ML10.b. and ML10.c. on specially designed components and related equipment for non-military "aircraft" or aero-engines modified for military use applies only to those military components and to military related equipment required for the modification to military use.

**ML11. Electronic equipment, not controlled elsewhere on the Munitions List, specially designed for military use and specially designed components therefore.**

Note: ML11. includes:

- a. Electronic countermeasure and electronic counter-countermeasure equipment (i.e., equipment designed to introduce extraneous or erroneous signals into radar or radio communication receivers or otherwise hinder the reception, operation or effectiveness of adversary electronic receivers including their countermeasure equipment), including jamming and counter-jamming equipment;
- b. Frequency agile tubes;
- c. Electronic systems or equipment designed either for surveillance and monitoring of the electro-magnetic spectrum for military intelligence or security purposes or for counteracting such surveillance and monitoring;
- d. Underwater countermeasures, including acoustic and magnetic jamming and decoy, equipment designed to introduce extraneous or erroneous signals into sonar receivers;
- e. Data processing security equipment, data security equipment and transmission and signaling line security equipment, using ciphering processes;
- f. Identification, authentication and key loader equipment and key management, manufacturing and distribution equipment;
- g. Military telecommunication satellites and their ground stations, except their dual-use components.

**ML12. High velocity kinetic energy weapon systems and related equipment, as follows, and specially designed components therefore:**

- a. Kinetic energy weapon systems specially designed for destruction or effecting mission-abort of a target;

- b. Specially designed test and evaluation facilities and test models, including diagnostic instrumentation and targets, for dynamic testing of kinetic energy projectiles and systems.

*N.B.: For weapon systems using sub-caliber ammunition or employing solely chemical propulsion, and ammunition therefore, see ML1. to ML4.*

*Note 1: ML12. includes the following when specially designed for kinetic energy weapon systems:*

- a. Launch propulsion systems capable of accelerating masses larger than 0.1 g to velocities in excess of 1.6 km/s, in single or rapid-fire modes;
- b. Prime power generation, electric armors, energy storage, thermal management, conditioning, switching or fuel-handling equipment; and electrical interfaces between power supply, gun and other turret electric drive functions;
- c. Target acquisition, tracking, and fire control or damage assessment systems;
- d. Homing seeker, guidance or divert propulsion (lateral acceleration) systems for projectiles.

*Note 2: ML12. controls weapon systems using any of the following methods of propulsion:*

- a. Electromagnetic;
- b. Electro-thermal;
- c. Plasma;
- d. Light gas; or
- e. Chemical (when used in combination with any of the above).

*Note 3: ML12. does not control "technology" for magnetic induction for continuous propulsion of civil transport devices.*

**ML13. Armoured or protective equipment and constructions and components, as follows:**

- a. Armoured plate as follows:
  - 1. Manufactured to comply with a military standard or specification; or
  - 2. Suitable for military use;
- b. Constructions of metallic or non-metallic materials or combinations thereof specially designed to provide ballistic protection for military systems, and specially designed components therefore;
- c. Military helmets;
- d. Body armors and flak suits manufactured according to military standards or specifications, or equivalent, and specially designed components therefore.

*Note 1: ML13.b. includes materials specially designed to form explosive reactive armors or to construct military shelters.*

*Note 2: ML13.c. does not control conventional steel helmets, neither modified or designed to accept, nor equipped with any type of accessory device.*

Note 3: ML13.d. does not control individual suits of body armors for personal protection and accessories therefore when accompanying their users .

N.B.: See also entry 1.A.5. on the Dual-Use List.

**ML14. Specialized equipment for military training or for simulating military scenarios and specially designed components and accessories therefore.**

Technical Note:

*The term 'specialized equipment for military training' includes military types of attack trainers, operational flight trainers, radar target trainers, radar target generators, gunnery training devices, anti-submarine warfare trainers, flight simulators (including human-rated centrifuges for pilot/astronaut training), radar trainers, instrument flight trainers, navigation trainers, missile launch trainers, target equipment, drone "aircraft", armament trainers, pilotless "aircraft" trainers and mobile training units.*

Note: ML14. includes image generating and interactive environment systems for simulators when specially designed or modified for military use.

**ML15. Imaging or countermeasure equipment, as follows, specially designed for military use, and specially designed components and accessories therefore:**

- a. Recorders and image processing equipment;
- b. Cameras, photographic equipment and film processing equipment;
- c. Image intensifier equipment;
- d. Infrared or thermal imaging equipment;
- e. Imaging radar sensor equipment;
- f. Countermeasure or counter-countermeasure equipment for the equipment controlled by sub-items ML15.a. to ML15.e.

Note: ML15.f. includes equipment designed to degrade the operation or effectiveness of military imaging systems or to minimize such degrading effects.

Note 1: The term 'specially designed components' includes the following when specially designed for military use:

- a. Infrared image converter tubes;
- b. Image intensifier tubes (other than first generation);
- c. Micro-channel plates;
- d. Low-light-level television camera tubes;
- e. Detector arrays (including electronic interconnection or read out systems);
- f. Pyroelectric television camera tubes;
- g. Cooling systems for imaging systems;
- h. Electrically triggered shutters of the photochromic or electro-optical type having a shutter speed of less than 100  $\mu$ s, except in the case of shutters which are an essential part of a high speed camera;

- i. Fibre optic image inverters;
- j. Compound semiconductor photocathodes.

Note 2: ML15 does not control "first generation image intensifier tubes" or equipment specially designed to incorporate "first generation image intensifier tubes".

N.B.: For the status of weapons sights incorporating "first generation image intensifier tubes" see entries ML1., ML2. and ML5.a.

N.B.: See also entries 6.A.002.a.2. and 6.A.002.b. on the Dual-Use List.

**ML16. Forgings, castings and other unfinished products the use of which in a controlled product is identifiable by material composition, geometry or function, and which are specially designed for any products controlled by ML1.to ML4., ML6., ML9., ML10., ML12. or ML19.**

**ML17. Miscellaneous equipment, materials and libraries, as follows, and specially designed components therefore:**

- a. Self-contained diving and underwater swimming apparatus, as follows:
  - 1. Closed or semi-closed circuit (rebreathing) apparatus specially designed for military use (i.e. specially designed to be non magnetic);
  - 2. Specially designed components for use in the conversion of open-circuit apparatus to military use;
  - 3. Articles designed exclusively for military use with self-contained diving and underwater swimming apparatus;
- b. Construction equipment specially designed for military use;
- c. Fittings, coatings and treatments for signature suppression, specially designed for military use;
- d. Field engineer equipment specially designed for use in a combat zone;
- e. "Robots", "robot" controllers and "robot" "end-effectors", having any of the following characteristics:
  - 1. Specially designed for military use;
  - 2. Incorporating means of protecting hydraulic lines against externally induced punctures caused by ballistic fragments (e.g., incorporating self-sealing lines) and designed to use hydraulic fluids with flash points higher than 839 K (566°C); or
  - 3. Specially designed or rated for operating in an electro-magnetic pulse (EMP) environment;
- f. Libraries (parametric technical databases) specially designed for military use with equipment controlled by the Munitions List;
- g. Nuclear power generating equipment or propulsion equipment, including "nuclear reactors", specially designed for military use and components therefore specially designed or modified for military use;
- h. Equipment and material, coated or treated for signature suppression, specially designed for military use, other than those controlled elsewhere in the Munitions List;



- i. Simulators specially designed for military "nuclear reactors";
- j. Mobile repair shops specially designed to service military equipment;
- k. Field generators specially designed for military use;
- l. Containers specially designed for military use;
- m. Bridges specially designed for military use.
- n. Test models specially designed for the "development" of items controlled by ML4., ML6., and ML9. or ML10.

Technical Note:

*For the purpose of ML17., the term 'library' (parametric technical database) means a collection of technical information of a military nature, reference to which may enhance the performance of military equipment or systems.*

**ML18. Equipment and "technology" for the production of products referred to in the Munitions List, as follows:**

- a. Specially designed or modified production equipment for the production of products controlled by the Munitions List, and specially designed components therefore;
- b. Specially designed environmental test facilities and specially designed equipment therefore, for the certification, qualification or testing of products controlled by the Munitions List;
- c. Specific production "technology", even if the equipment with which such "technology" is to be used is not controlled;
- d. "Technology" specific to the design of, the assembly of components into, and the operation, maintenance and repair of complete production installations even if the components themselves are not controlled.

Note 1: *ML18.a. and ML18.b. include the following equipment:*

- a. *Continuous nitrators;*
- b. *Centrifugal testing apparatus or equipment having any of the following characteristics:*
  - 1. *Driven by a motor or motors having a total rated horsepower of more than 298 kW (400 hp);*
  - 2. *Capable of carrying a payload of 113 kg or more; or*
  - 3. *Capable of exerting a centrifugal acceleration of 8 g or more on a payload of 91 kg or more;*
- c. *Dehydration presses;*
- d. *Screw extruders specially designed or modified for military explosive extrusion;*
- e. *Cutting machines for the sizing of extruded propellants;*
- f. *Sweetie barrels (tumblers) 1.85 m or more in diameter and having over 227 kg product capacity;*
- g. *Continuous mixers for solid propellants;*

- h. Fluid energy mills for grinding or milling the ingredients of military explosives;*
- i. Equipment to achieve both sphericity and uniform particle size in metal powder listed in ML8.a.8j.;*
- j. Convection current converters for the conversion of materials listed in ML8.a.3.*

Technical Note:

*For the purposes of ML18., the term 'production' includes design, examination, manufacture, testing and checking.*

Note 2:

- a. The term 'products referred to in the Munitions List' includes:*
  - 1. Products not controlled if inferior to specified concentrations as follows:*
    - a. Hydrazine (see ML8.a.18.);*
    - b. "Explosives" (see ML8.);*
  - 2. Products not controlled if inferior to technical limits, (i.e., "superconductive" materials not controlled by 1.C.5. on the Dual-Use List; "superconductive" electromagnets not controlled by 3.A.1.e.3. on the Dual-Use List; "superconductive" electrical equipment excluded from control under ML20.b.);*
  - 3. Metal fuels and oxidants deposited in laminar form from the vapor phase (see ML8.a.5.);*
- b. The term 'products referred to in the Munitions List' does not include:*
  - 1. Signal pistols (see ML2.b.);*
  - 2. The substances excluded from control under Note 3 to ML7.;*
  - 3. Personal radiation monitoring dosimeters (see ML7.f.) and masks for protection against specific industrial hazards, see also Dual-Use List;*
  - 4. Difluoroamine and potassium nitrate powder (see Note 6 to ML8.);*
  - 5. Aero-engines excluded from control under ML10.;*
  - 6. Conventional steel helmets not equipped with, or modified or designed to accept, any type of accessory device (see Note 2 to ML13.);*
  - 7. Equipment fitted with industrial machinery, which is not controlled such as coating machinery not elsewhere specified and equipment for the casting of plastics;*
  - 8. Muskets, rifles and carbines dated earlier than 1938, reproductions of muskets, rifles and carbines dated earlier than 1890, revolvers, pistols and machine guns dated earlier than 1890, and their reproductions;*

Note 3: *Note 2.b.8. of ML18. does not release from controls "technology" or production equipment for non-antique small arms, even if used to produce reproductions of antique small arms.*

Note 4: *ML18.d. does not control "technology" for civil purposes, such as agricultural, pharmaceutical, medical, veterinary, environmental, waste management, or in the food industry.*

N.B.: See Note 4 to ML7

**ML19. Directed energy weapon systems (DEW), related or countermeasure equipment and test models, as follows, and specially designed components therefore:**

- a. "Laser" systems specially designed for destruction or effecting mission-abort of a target;
- b. Particle beam systems capable of destruction or effecting mission-abort of a target;
- c. High power radio-frequency (RF) systems capable of destruction or effecting mission-abort of a target;
- d. Equipment specially designed for the detection or identification of, or defense against, systems controlled by ML19.a. to ML19.c.;
- e. Physical test models and related test results for the systems, equipment and components controlled by this Item.
- f. Continuous wave or pulsed "laser" systems specially designed to cause permanent blindness to un-enhanced vision, i.e., to the naked eye or to the eye with corrective eyesight devices.

Note 1: Directed energy weapon systems controlled by ML19. include systems whose capability is derived from the controlled application of:

- a. "Lasers" of sufficient continuous wave or pulsed power to effect destruction similar to the manner of conventional ammunition;
- b. Particle accelerators which project a charged or neutral particle beam with destructive power;
- c. High pulsed power or high average power radio frequency beam transmitters which produce fields sufficiently intense to disable electronic circuitry at a distant target.

Note 2: ML19. includes the following when specially designed for directed energy weapon systems:

- a. Prime power generation, energy storage, switching, power conditioning or fuel-handling equipment;
- b. Target acquisition or tracking systems;
- c. Systems capable of assessing target damage, destruction or mission-abort;
- d. Beam-handling, propagation or pointing equipment;
- e. Equipment with rapid beam slew capability for rapid multiple target operations;
- f. Adaptive optics and phase conjugators;
- g. Current injectors for negative hydrogen ion beams;
- h. "Space qualified" accelerator components;
- i. Negative ion beam funneling equipment;
- j. Equipment for controlling and slewing a high-energy ion beam
- k. "Space qualified" foils for neutralizing negative hydrogen isotope beams

**ML20. Cryogenic and "superconductive" equipment, as follows, and specially designed components and accessories therefor:**

- a. Equipment specially designed or configured to be installed in a vehicle for military ground, marine, airborne or space applications, capable of operating while in motion and of producing or maintaining temperatures below 103 K (-170°C);

*Note: ML20.a. includes mobile systems incorporating or employing accessories or components manufactured from non-metallic or non-electrical conductive materials, such as plastics or epoxy-impregnated materials.*

- b. "Superconductive" electrical equipment (rotating machinery and transformers) specially designed or configured to be installed in a vehicle for military ground, marine, airborne or space applications, capable of operating while in motion.

*Note: ML20.b. does not control direct-current hybrid homopolar generators that have single-pole normal metal armatures which rotate in a magnetic field produced by superconducting windings, provided those windings are the only superconducting component in the generator.*

**ML21. "Software", as follows:**

- a. "Software" specially designed or modified for the "development", "production" or "use" of equipment or materials controlled by the Munitions List;
- b. Specific "software", as follows:
  1. "Software" specially designed for:
    - a. Modelling, simulation or evaluation of military weapon systems;
    - b. "Development", monitoring, maintenance or up dating of "software" embedded in military weapon systems;
    - c. Modelling or simulating military operation scenarios, not controlled by ML14.;
    - d. Command, Communications, Control and Intelligence (C 3 I) or Command, Communications, Control, Computer and Intelligence (C 4 I) applications;
  2. "Software" for determining the effects of conventional, nuclear, chemical or biological warfare weapons.
  3. "Software", not controlled by ML21.a., b.1. or b.2., specially designed or modified to enable equipment not controlled by the Munitions List to perform the military functions of equipment controlled by ML5., ML7.f., ML9.c., ML9.e., ML10.e., ML11., ML14., ML15., ML17.i., or ML18.

**ML22. "Technology" according to the General Technology Note of the Munitions List for the "development", "production" or "use" of items controlled in the Munitions List, other than that "technology" controlled in ML7. and ML18.**

## DEFINITIONS OF TERMS USED IN THESE LISTS

This document contains the definitions of the terms used in these Lists, in alphabetical order.

### **"Adapted for use in war"**

Any modification or selection (such as altering purity, shelf life, virulence, dissemination characteristics, or resistance to UV radiation) designed to increase the effectiveness in producing casualties in humans or animals, degrading equipment or damaging crops or the environment.

### **"Additives"**

Substances used in explosive formulations to improve their properties.

### **"Aircraft"**

A fixed wing, swivel wing, rotary wing (helicopter), tilt rotor or tilt-wing airborne vehicle.

### **"Biocatalysts"**

Enzymes for specific chemical or biochemical reactions or other biological compounds, which bind to and accelerate the degradation of CW agents.

#### Technical Note

*'Enzymes' means "biocatalysts" for specific chemical or biochemical reactions.*

### **"Biopolymers"**

Biological macromolecules as follows:

- a. Enzymes for specific chemical or biochemical reactions;
- b. Antibodies, monoclonal, polyclonal or anti-idiotypic;
- c. Specially designed or specially processed receptors;

#### Technical Notes

1. *'Anti-idiotypic antibodies' means antibodies, which bind to the specific antigen binding sites of other antibodies;*
2. *'Monoclonal antibodies' means proteins, which bind to one antigenic site and are produced by a single clone of cells;*
3. *'Polyclonal antibodies' means a mixture of proteins, which bind to the specific antigen and are produced by more than one clone of cells;*
4. *'Receptors' means biological macromolecular structures capable of binding ligands, the binding of which affects physiological functions.*

### **"Civil aircraft"**

Those "aircraft" listed by designation in published airworthiness certification lists by the civil aviation authorities to fly commercial civil

internal and external routes or for legitimate civil, private or business use.

**"End-effectors"**

Grippers, active tooling units and any other tooling that is attached to the baseplate on the end of a "robot" manipulator arm.

Technical Note

*'Active tooling units' are devices for applying motive power, process energy or sensing to a workpiece.*

**"Energetic materials"**

Substances or mixtures that react chemically to release energy required for their intended application. "Explosives", "pyrotechnics" and "propellants" are subclasses of energetic materials.

**"Explosives"**

Solid, liquid or gaseous substances or mixtures of substances which, in their application as primary, booster, or main charges in warheads, demolition and other applications, are required to detonate.

**"Expression Vectors"**

Carriers (e.g., plasmid or virus) used to introduce genetic material into host cells.

**"First generation image intensifier tubes"**

Electrostatically focused tubes, employing input and output fibre optic or glass face plates, multi-alkali photocathodes (S-20 or S-25), but not micro-channel plate amplifiers.

**"Laser"**

An assembly of components which produce both spatially and temporally coherent light that is amplified by stimulated emission of radiation.

**"Nuclear reactor"**

Includes the items within or attached directly to the reactor vessel, the equipment which controls the level of power in the core, and the components which normally contain or come into direct contact with or control the primary coolant of the reactor core.

**"Precursors"**

Specialty chemicals used in the manufacture of explosives.

**"Pyrotechnic(s)"**

Mixtures of solid or liquid fuels and oxidizers which, when ignited, undergo an energetic chemical reaction at a controlled rate intended to produce specific time delays, or quantities of heat, noise, smoke, visible light or infrared radiation. Pyrophorics are a subclass of pyrotechnics, which contain no oxidizers but ignite spontaneously on contact with air.

### "Riot control agents"

Substances which produce temporary irritating or disabling physical effects which disappear within minutes of removal from exposure. There is no significant risk of permanent injury and medical treatment is rarely required.

### "Robot"

A manipulation mechanism, which may be of the continuous path or of the point-to-point variety, may use sensors, and has all the following characteristics:

- a. is multifunctional;
- b. is capable of positioning or orienting material, parts, tools or special devices through variable movements in three-dimensional spaces;
- c. Incorporates three or more closed or open loop servo-devices which may include stepping motors; and

### "Robot" contd.

- d. Has "user-accessible programmability" by means of the teach/playback method or by means of an electronic computer, which may be a programmable logic controller, i.e., without mechanical intervention.

Note *The above definition does not include the following devices:*

1. *Manipulation mechanisms, which are only manually/teleoperator controllable;*
2. *Fixed sequence manipulation mechanisms, which are automated moving devices, operating according to mechanically fixed programmed motions. The programme is mechanically limited by fixed stops, such as pins or cams. The sequence of motions and the selection of paths or angles are not variable or changeable by mechanical, electronic or electrical means;*
3. *Mechanically controlled variable sequence manipulation mechanisms, which are automated moving devices, operating according to mechanically, fixed programmed motions. The programme is mechanically limited by fixed, but adjustable stops, such as pins or cams. The sequence of motions and the selection of paths or angles are variable within the fixed programme pattern. Variations or modifications of the programme pattern (e.g., changes of pins or exchanges of cams) in one or more motion axes are accomplished only through mechanical operations;*
4. *Non-servo-controlled variable sequence manipulation mechanisms, which are automated moving devices, operating according to mechanically, fixed programmed motions. The programme is variable but the sequence proceeds only by the binary signal from mechanically fixed electrical binary devices or adjustable stops;*
5. *Stacker cranes defined as Cartesian coordinate manipulator systems manufactured as an integral part of a vertical array*

*of storage bins and designed to access the contents of those bins for storage or retrieval.*

**"Space qualified"**

Products designed, manufactured and tested to meet the special electrical, mechanical or environmental requirements for use in the launch and deployment of satellites or high altitude flight systems operating at altitudes of 100 km or higher.

**"Superconductive"**

Refers to materials, (i.e., metals, alloys or compounds) which can lose all electrical resistance (i.e., which can attain infinite electrical conductivity and carry very large electrical currents without Joule heating).

Technical Note

*The "superconductive" state of a material is individually characterized by a "critical temperature", a critical magnetic field, which is a function of temperature, and a critical current density, which is, however, a function of both magnetic field and temperature.*

**"Tear gases"**

Gases which produce temporary irritating or disabling affects which disappear within minutes of removal from exposure.

Software (all categories) a collections by one or more "programs" or "microprogramms, which are stored on any type of accessible support.

*Note "Micro-programmes": a sequence of elementary instructions maintained in a special storage, the execution of which is initiated by the introduction of its reference instruction register*

**"In the public domain"**

This means " software" or " technology" which has been made available without restrictions upon its further dissemination. (Copyright restrictions do not remove "software" or " technology" from being "In the public domain"

**"Development"**

Is related to all phases prior to " production" such as: design, design research, design analysis, design concepts, assembly and testing of prototypes, pilot production schemes, design data, process of transforming design data into a product, configuration design, integration design, layouts.

**"Basic scientific research"**

Experimental or theoretical work undertaken principally to acquire new knowledge of the fundamental principles of phenomena or observable facts, not primarily directed towards a specific practical aim or objective.

**"Technology"**



Specific information necessary for the "development", "production" or "use" of a product. The information takes the form of technical data or technical assistance. Controlled "technology" is defined in the General Technology Note and in the Dual-Use List.

Technical Notes

1. *'Technical data' may take forms such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, read-only memories.*
2. *'Technical assistance' may take forms such as instruction, skills, training, and working knowledge, consulting services. 'Technical assistance' may involve transfer of 'technical data'.*

**“Use”**

Means: operation, installation (including on-site installation) maintenance, repair, overhaul, refurbishing