With reference to operative paragraph 2 of Resolution 58/42 (2003) on the “National legislation on the transfer of arms, military equipment and dual use goods and technology”, Austria is providing herewith information to the Secretary General on her relevant national legislation, regulations and procedures to make this information accessible for Member States.

1. Control of the Export of War Material


Section 3 WMA stipulates that the following criteria have to be taken into account:
- a licence may not be in contradiction to Austria’s obligations under international law or the foreign policy interests of Austria
- the export or transit is not to a region where an armed conflict is taking place, is expected to break out or where there are other dangerous tensions
- there is no danger that - in view of severe and reiterated human rights violations in the country concerned - the material will be used for the suppression of human rights
- observance of embargoes of the UN Security Council
- it does not contravene public security or military considerations
- there are no other comparable important objections.

Individual applications for war material as defined in the War Material Regulation decreed by the Austrian Government on 22 November 1977, Federal Law Gazette No. 624/1977 are assessed and decided according to the criteria of Section 3 WMA and taking into account the EU-Code of Conduct on Arms Exports.

Exports of war material by the Minister of Defence, the Minister of the Interior, the Minister of Justice (e.g. Prison Guards) and the Minister of Finance (e.g. Customs Police) are subject to the approval of the Federal Government according to Section 5 Para. 2 WMA.

All denials issued by the Ministry of the Interior can be appealed against within 6 weeks of receipt by the applicant at the High Administrative Court.

Under Section 3a WMA the „National Security Council“ is informed by the Federal Government within the first six months of each year of the Austrian war material exports and imports of the preceding year.

2. Control of the Export of Weapons other than War Material

The legal basis for the control of exports of weapons other than war material is the Austrian Foreign Trade Act, Federal Law Gazette No. 172/1995, as amended, in short FTA. Section 4 of the Decree enacted on the basis of the Foreign Trade Act,
Federal Law Gazette No. 187/1997, stipulates that an export of goods listed in this Decree to a destination outside the customs territory of the European Union needs a license issued by the Federal Ministry for Economy and Labour.

According to Section 8 FTA, a license has to be refused, if it would violate international obligations. Due consideration has to be given to avoid a danger for international peace and security, avoidance of danger for Austria’s security, avoidance of danger of a serious disturbance of Austria’s foreign relations or avoidance of exports to areas of armed conflict.

Individual applications are assessed and decided by the criteria of Section 8 FTA and taking into account the EU-Code of Conduct on Arms Exports. Licenses are issued by the Ministry for Economy and Labour after consulting with other competent Austrian authorities.

All denials issued by the Ministry for Economy and Labour can be appealed against within 6 weeks of receipt by the applicant at the High Administrative Court.

3. Control of the export of dual use goods and technology

Goods that might be used for weapons of mass destruction (dual use goods) are covered by EU-dual use regulation 1334/2000 as amended. This regulation includes in its Article 4 a catch-all clause for items not listed in Annex 1 of Regulation 1334/2000. According to section 11 of the Austrian Foreign Trade Act Decree, an exporter has to notify the Federal Ministry for Economy and Labour if he or she has reason to believe that an intended export might be used for weapons of mass destruction or for the installation into military goods in countries under EU-, OSCE- or UN-embargo. Exports of items not listed in Annex 1 are also subject to export controls, if the Federal Ministry for Economy and Labour informs the exporter that the goods could be destined for the mentioned purposes.

4. Brokerage

4.1 Brokerage of War Material

Since an amendment to WMA of 2001 (Federal Law Gazette I No. 57/2001) arms brokerage activities are subject to a separate authorization. Section 1 Para. 4 WMA defines the brokerage of war material as a transaction where a person resident or based in Austria allows or arranges the transfer of articles, which are outside the customs territory of the European Union to another country outside the customs territory of the European Union. The licence is issued under the same conditions as mentioned under 1.

4.2 Brokerage of Weapons other than War Material

According to section 6 of the Austrian Foreign Trade Act Decree any brokerage activity of goods listed in its Annex 1 (Common Control List) which are outside the customs territory of the European Union to another country outside the customs territory of the European Union is subject to a license requirement. The licence is issued under the same conditions as mentioned under 2.
4.3 Brokerage of dual use goods and technology
Section 2 of the Austrian Foreign Trade Act Decree stipulates that for the brokerage of dual use goods and technology a licence of the Federal Ministry for Economy and Labour is needed. Brokerage of these goods and technology however is free if the country of destination is a member state of OECD (except one country) and if the value of the goods does not exceed 840,– Euro.