Information of Ukraine
on national legislation, regulations and procedures on
the transfer of arms, military equipment and dual-use goods and
technology, as well as the changes therein
(according to the UN GA 58th session Resolution 58/42 "National legislation
on transfer of arms, military equipment and dual-use goods and technology")

Ukraine's legal basis for state export control includes:
- Law of Ukraine "On State Control of International Transfers of Military and
  Dual-Use Goods", February 20, 2003;
- Decree of the President of Ukraine "On Measures to Enhance the
  Effectiveness of Military and Technical Cooperation Between Ukraine and
  Foreign States", No. 868, July 8, 2000;
- Decree of the President of Ukraine "On the State Export Control Service of
  Ukraine", No. 1265, December 27, 2001
- Decree of the President of Ukraine "On the Competence of the State Export
  Control Service of Ukraine", No. 342, April 17, 2002;
- Decree of the President of Ukraine "On Measures on Regulation of
  Activities in the Field of International Air Transportation of Military and
- Decree of the Cabinet of Ministers of Ukraine No. 86, January 28, 2004
  "On Approval of the Regulation of the Procedures of the State Control over
  International Transfers of Dual-Use Goods";
- Decree of the Cabinet of Ministers of Ukraine No. 1807 of November 20,
  2003 "On the Approval of the Regulations of the Procedures for the State
  Monitoring of International Transfers of Military Goods";
- Decree of the Cabinet of Ministers of Ukraine No. 1005 of August 22, 1996
  "On the Procedures for the Control over Export, Import and Transit of
  Certain Items, Equipment, Materials, Software and Technologies that may
  be Used for Weapons, Military and Special Materiel Production";
- Decree of the Cabinet of Ministers of Ukraine No. 767 of July 15, 1997 "On
  the Approval of the Regulations of the Procedures for the Analysis in the
  Sphere of Export Control";
- Decree of the Cabinet of Ministers of Ukraine No. 125 of February 8, 1998
  "On the Approval of the Regulations of the Procedures for State Monitoring
  of Negotiations Related to the Conclusion of Foreign Economic
  Agreements (contracts) on International Transfers of Military and Dual-Use
  Goods";
- Decree of the Cabinet of Ministers of Ukraine No. 838 of June 8, 1998 "On
  the Approval of the Regulations of the Procedures for Granting to Entities
Engaged in Foreign Economic Activities Authorization for Export and Import of Military Goods and Goods Containing Information that Constitutes a State Secret;
- Decree of the Cabinet of Ministers of Ukraine No. 920 of May 27, 1999 "On the Procedures for State Monitoring of Obligations to Use Goods Subject to Export Control for Declared Purposes".

Ukraine's export control legislation is based on the internationally accepted norms and principles and fully incorporates export control provisions of the international control regimes, namely the Nuclear Suppliers Group, Zangger Committee, Missile Technologies Control Regime and Wassenaar Arrangement, which Ukraine is a member of.

The provisions of the Australian Group are also incorporated in Ukraine's legislation, although now Ukraine is an aspirant for its membership.

In Ukraine state control over transfers of respective goods is exercised according to the control lists approved within the framework of the above-mentioned export control regimes and also in accordance with the CWC and BWC provisions.

The national export control system undergoes permanent development, which meets the emerging new challenges brought by worldwide trends in the field of non-proliferation and international terrorism counteraction.

The adoption of the Law of Ukraine "On State Control of International Transfers of Military and Dual-Use Goods" of February 20, 2003, has become a major event in the area of export control in Ukraine in 2003. This document is now at the core of Ukraine's export control legislation.

Although Ukraine's national system of export control had been already functioning on the basis of relevant legislative acts including decrees of the Cabinet of Ministers of Ukraine and the President of Ukraine, the Law considerably increased the transparency of the system, making it more comprehensible to business and clearly outlining the state's relevant functions.

The Law determines:
- the principles of the state export control policy;
- the order according to which entities obtain licenses for international transfers of goods subject to export control;
- the mechanism of counteracting violations in the area of export control.

It is important from the standpoint of both transparency and efficiency that the Law defines the duly authorized state export control body, which is the State Export Control Service of Ukraine. It is granted an independent status and broad functions and authorities in the area of export control. The Law puts
the State Service of Export Control in the center of the scheme of inter-agency exchange of information on issues related to export control.

The Law has provisions regulating the issues of brokerage with regard to trade in military and dual-use goods.

According to the Law intermediary (brokerage) activity is defined as “any actions by a business entity of Ukraine that assist implementation of international transfers of goods designated for military purpose, including actions related to financing, transporting or expediting shipments, irrespective of the origin of such goods and territory on which such activity is conducted”.

The Law stipulates that licenses for transfers of military and dual-use goods may be granted only to those entities, which are registered by the State Service of Export Control.

The Law provides legal basis for the system of intrafirm export control, which implies measures taken by business entities for providing compliance with export control legislation.

The Law has increased responsibility of business entities for violations of export control regulations.

Companies are not allowed to conclude contracts for international transfers of goods if they have information that such goods may be used by a foreign state or foreign business for creation of weapons of mass destruction or means of their delivery.

According to this legislation a company must refuse to fulfil a contract for international transfer of goods if it gets information that the goods will be used (a) for other purposes than those declared in the contract or related documents or (b) by another end-user than the one stated in the contract or related documents.

The Law has provisions that promote effective counteraction of violations in the area of export control.

To prevent violations of export control legislation the State Service of Export Control as well as other state bodies within the limits of their authority are enabled to perform investigations, including control of delivery of goods to end-users and check-ups of the actual use of goods with regard to the declared purposes.

In case of detecting violations of export control regulations the state bodies are to inform the State Service of Export Control.

If there is a sufficient information about any person's or company's intention to commit or about an actual fact of committing a crime related to illegal actions with goods subject to export control the State Service of Export Control has to inform the relevant enforcement authorities of Ukraine.

According to the Law the violations of export control legislation are, inter alia, the following:
- exercising international transfers of goods subject to export control without obtaining appropriate licenses;
- performing international transfers of controlled goods by licenses obtained as result of submitting counterfeit documents or documents containing false information;
- concluding contracts for international transfers of any goods whatsoever if there is information that such goods may be used by a foreign country or foreign business for creation of weapons of mass destruction or means of their delivery;
- performing international transfers of controlled goods irrespective of having obtained information that the goods shipped will be used for purposes other than those declared in the contract or related documents;
- deliberate concealment of information that could influence the decision as to granting a license;

The State Service of Export Control is empowered to impose fines on entities for violation of export control legislation.

The amount of the fines is established in a way, which makes it unprofitable to the entities to break the Law.

Apart from fines the State Service of Export Control may cancel or revoke a license or cancel registration of a business that has violated the Law depending on the type and scale of the committed violation. This measure is even more effective than fines.

After the adoption of the Law, the relevant changes were made in the Criminal Code and Code on Administrative Violations of Ukraine. These changes provide a higher level of responsibility for violating export control regulations.