The Republic of Serbia's Response in accordance with the UN General Assembly resolution 62/26 (2007), entitled "National legislation on transfer of arms, military equipment and dual-use goods and technology"

Foreign trade in weapons, military equipment and dual-use goods, that is, the manner and conditions under which it can be conducted, jurisdiction for issuing the required licenses for export and import, transport, transit, possession and provision of services in foreign trade transfers, oversight and control, prohibitions, penalties as well as the powers for the adoption of secondary legislation are regulated by the Law on Foreign Trade in Arms, Military Equipment and Dual-Use Goods, which was passed by the Assembly of Serbia and Montenegro on February 17, 2005, came into effect on March 31 of the same year, and is still in force.

The objective of the Law is to assume state control for the protection of security, foreign policy and economic interests, international credibility and integrity as well as to fulfill international commitments undertaken by the Republic of Serbia. The Law forms the basis for comprehensive control of the export and import of weapons, military equipment, dual-use goods and related technologies and includes sanctions for its violation, provides for an obligatory registration of business entities for conducting foreign trade in controlled goods and the licensing procedure, as well as the terms under which a license may be issued and used, specifies the tasks and roles of competent government bodies relating to requested administrative procedure and explicitly forbids foreign trade, transport, transit and possession of nuclear, chemical and biological weapons and devices for their delivery, in accordance with UNSC Resolution 1540.

Prior to the adoption of the Law, trade and production of weapons and military equipment were regulated by a single law the implementation of which were in the jurisdiction of the military. The two areas are now separate, and the jurisdiction over foreign trade of weapons and military equipment was transferred to civil bodies.

Besides the Law on Foreign Trade in Arms, Military Equipment and Dual-Use Goods, the other regulations in this area are:
1. The Law on the Transport of Hazardous Substances (Official Gazette of the FRY No 27/90 and Official Gazette of the FRY No 28/96);
2. The Customs Law (Official Gazette of the Republic of Serbia 73/03, 61/05, 85/05 and 62/06);
3. The Law on International Trade Activities (Official Gazette of the Republic of Serbia 71/05);
4. The Law on Crossing the State Border and Movement in Border Zone (Official Gazette of the FRY 34/79 and Official Gazette of the FRY 28/94 and 28/96).

The sub-legal acts for the implementation of the Law on Foreign Trade in Arms, Military Equipment and Dual-Use Goods are:
1. The Decision on the Establishment of the National Control List of Arms and Military Equipment (brought in line with the Common EU Military List and the EU Code of Conduct on Arms Exports);
2. The Decision on the Criteria for Issuing Licenses for the Export of Arms, Military Equipment and Dual-Use Goods;
3. The Rulebook on the Manner of Keeping the Register of Entities Licensed to Perform Foreign Trade in Controlled Goods; and
4. The Rules for the Application Form for licensing, License Form and other forms that follow foreign trade in controlled goods.

Under Article 9 of the Law, foreign trade in controlled goods is conducted in accordance with the license issued by the Ministry of Economy and Regional Development as the competent ministry responsible for issuing licenses for the conduct of international trade in controlled goods listed in Article 3 and 4 of the Law, except if otherwise provided for by the Law.

Apart from the Ministry of Economy and Regional Development, the following institutions participate in the licensing procedure: the Ministry of Foreign Affairs, the Ministry of Defense and the Ministry of Internal Affairs, which, within their respective jurisdictions, relating to the procedure of licensing for foreign trade in controlled goods, consider the application, verify information contained in it and give their approval or an opinion whether a license should be issued. The role of each ministry is specified under Articles 21, 22 and 23 of the Law.

The Ministry of Economy and Regional Development issues licenses for the export of conventional arms and related technology upon the approval of the Ministry for Foreign Affairs and Ministry of Defense as well as the opinion of the Ministry for Internal Affairs. The Ministry of Economy and Regional Development issues individual licenses for every single activity.

When considering whether to approve foreign transfer of controlled goods, the Ministry of Foreign Affairs of the Republic of Serbia takes into account:
- Sanctions imposed by the UN Security Council and the recommendations of the Organization for Security and Cooperation in Europe;
- International commitments undertaken and foreign policy interests of Serbia;
- EU Code of Conduct on Arms Exports; and
- The level of observance, that is, the record of human rights and freedoms in the final destination state.

In giving its approval for a foreign transfer of controlled goods, the Ministry of Defense of the Republic of Serbia takes into account:
- Effects on the security of Serbia;
- Whether the weapons and military equipment intended for export are in the export list of arms and military equipment;
- Whether there is a decision by the Ministry of Defense of Serbia concerning arms and military equipment from the stockpiles of the Serbian Army; and
- Whether Serbia, on the basis of the transfer of technology by the Ministry of Defense and the Army, participates in ownership of the technology in question.

When deciding on its approval for foreign transfers of controlled goods, the Ministry of Internal Affairs of the Republic of Serbia takes into account:
- Effects on national security.
- Effects on traffic safety; and
- Effects on the safety of public and their property.

The Ministry of Internal Affairs and the Civil Aviation Directorate issue transit and transport licenses.

All conventional arms are subject to export controls. It is listed in the National Control List of Arms and Military Equipment and this List forms an integral part of the Regulation on Arms and Military Equipment (Official Gazette of SaM No 1/05) and is aligned with the EU List (2000/C 191). The List can be accessed on the official website of the Ministry www.merr.sr.gov.yu

In the Republic of Serbia, the National Control List of Arms and Military Equipment is at present being updated and brought in line with the new, current European Union list.

Every application for export license is considered individually, on a case-by-case basis, and while making the decision on license issuing, related to the destination of the export, special attention is paid to sanctions imposed by the UN Security Council and recommendations of the Organization for Security and Cooperation in Europe (OSCE), assumed international obligations and foreign political interests of the Republic of Serbia, EU Code of Conduct on Arms Exports, level of the respect for human rights and freedoms in the country of final destination.

Application for license will be denied if the proposed export is not in accordance with foreign policy, security and economic interests of Republic of Serbia, if the company is not registered in the register of persons allowed to perform foreign trade, if the company does not submit the End User Certificate (EUC).

Along with the export license application, the company is required to submit the EUC obtained by the official authority of the end user country. The certificate should contain following data: name and address of the exporter, name and address of the end user, country of final destination, type of goods, statement that the goods will not be used for other purposes, that they will not be re-exported or otherwise traded in or transferred to without written approval of the country of delivery, signature, name and position of the authorized person and number and date of issuance. At the request of the Ministry the applicant shall submit the certificate that confirms receipt of the conventional arms after delivery, issued by the competent authority of the final destination country.

Transit and transshipment are regulated by laws. Licenses for transport and transit are issued by the Ministry of Internal Affairs on the basis of the license for concrete exports previously issued by the Ministry of Economy and Regional Development. Goods in the free zones are not subject to customs and tax fees for movement in the zone area, but the license is required for entering or leaving the zone outside the territory of the Republic of Serbia.

The Ministry of Economy and Regional Development will revoke a company’s license if the license is issued based on false data or if the issuing conditions have been changed significantly; if the company or the foreign trade activity has violated
the foreign policy interests, national security or the economy of the Republic of Serbia; if the company stopped complying with licensing conditions or if the conditions stipulated in the license have not been respected.

Penalties for export control violations are stipulated by the Law on Foreign Trade in Arms, Military Equipment and Dual-Use Goods (Official Gazette SaM 7/05). A fine equivalent to from a single to quintuple value of the goods will be imposed on a person performing foreign trade without being registered in the Register of Entities Licensed to Perform Foreign Trade in Controlled Goods managed by the Ministry of Economy and Regional Development, on a person performing foreign trade without license issued by the Ministry of Economy and Regional Development and a person who states false data or omits material facts in the license issuing process.

Apart from the fine, for cases above mentioned, a safety measure of removing from the Register of Entities Licensed to Perform Foreign Trade in Controlled Goods allowed to perform foreign trade in these goods will be passed and the goods violation will be confiscated. The ban will be applied for three years and will enter into force once the measure becomes legally valid.

License is required for any temporary export. The period of license for temporary export is limited and it can be valid up to one year. The license owner is obliged to temporary return exported goods to Serbia within the allowed period of time. Also, the company is under obligation to inform the Ministry of Economy and Regional Development of the license use or to return the obtained not used license, within 15 days from the day of its expiration at the latest.

Only individual licenses are issued in the Republic of Serbia. The license for engaging in foreign trade in controlled goods is a written document of the competent ministry, by which, on the basis of set criteria, a company is permitted to perform a single foreign trade deal involving a specified amount and type of controlled goods, under conditions specified under the contract with a foreign partner, and in accordance with the previously performed, legally determined procedure and the presentation of all legally required documentation.

The Republic of Serbia published its first national report on the subject providing an overview of the export and import control of weapons, military equipment and dual-use goods in 2005 and 2006; in line with the recommendations, standards and the European Union Code of Conduct on Arms Exports. The Report was prepared by the Ministry of Economy and Regional Development of the Republic of Serbia. This Report, as well as regulations related to exports of arms and dual-use goods can be accessed on the official website of the Ministry of Economy and Regional Development www.merr.sr.gov.yu