Act of 18 December 1987 relating to Control of the Export of Strategic Goods, Services, Technology, etc.

§ 1
The King may decide that goods and technology that may be of significance for other countries’ development, production or utilisation of products for military use or that may directly serve to develop the military capability of a country, including goods and technology that can be used to carry out terrorist acts, cf. the Penal Code, section 147a, first paragraph, shall not be exported from the Norwegian customs area without special permission. A prohibition may also be laid down against rendering services such as are mentioned in the first sentence without special permission. Conditions may be laid down for such permission. The King may also prohibit persons who are resident or staying in Norway and Norwegian companies, foundations and associations from trading in, negotiating or otherwise assisting in the sale of weapons or military materiel from one foreign country to another without special permission. The same applies to strategic goods and technology such as are further specified in regulations.

The King will issue further regulations to supplement and implement this Act.

§ 2
Every person has a duty to provide the Ministry with any assistance or information required in order to ensure compliance with the provisions of this Act or any regulations issued pursuant thereto.

For this purpose the Ministry may conduct inspections and require access to recorded accounting information, accounting records, business documents and other documents that may be of importance. The Ministry itself may conduct inspections or appoint experts to do so. In connection with such inspections the Ministry shall be given access to office or company premises and shall be provided with the necessary assistance and guidance. Appeals pursuant to sections 14 and 15 of the Public Administration Act do not have suspensive effect unless so decided by the subordinate instance or the appeals instance.

The duties set out in the first and second paragraphs apply notwithstanding any statutory duty of secrecy.

Subject to the exceptions that follow from the above provisions, every person has a duty of secrecy as regards information obtained under this Act. However, the duty of secrecy shall not prevent:

1. information from being used to achieve the purpose for which it was provided or obtained, for example in connection with the preparation of a case, a decision, the implementation of a decision, follow-up or control,
2. the information from being accessible to other public officials within the agency or service to the extent that this is necessary to establish suitable work routines and archives systems, for instance for use as guidelines in other cases,
3. the administrative agency from furnishing other administrative agencies with information concerning an enterprise’s relationship to the agency and concerning decisions made when this is necessary to further the duties under this Act of the agency furnishing the information,
4. the administrative agency from reporting or providing information concerning breaches of the law to the prosecuting authority or to the supervisory authorities concerned if this considered desirable in the public interest or if prosecuting the offence comes within the normal scope of the duties of the agency furnishing the information.

5. the administrative agency from exchanging information (coordination) with another administrative agency as required by the Act relating to the reporting obligations of enterprises.

The Ministry may furthermore decide that public agencies in charge of tax assessment and control of value added tax shall be allowed access to information provided in accordance with this Act.

Sections 13 to 13e of the Public Administration Act do not apply.

§ 3
The Ministry may apply for the seizure of accounting records, etc. such as are mentioned in section 2, second paragraph. If there is reason to believe that such records exist, and if circumstances otherwise so indicate, the Ministry may apply for a search of offices and all other premises that are not private residences.

An application for search or seizure shall be addressed to the police. As regards further consideration of the application, the provisions of the Criminal Procedure Act apply insofar as they are appropriate. The person whom the application concerns shall have the rights of a party to the case in accordance with the provisions of the Criminal Procedure Act and, insofar as it is necessary for his activities, shall have access to the material seized. Nevertheless, this does not mean that he is to be regarded as charged with a criminal act. Section 204 of the Criminal Procedure Act applies correspondingly. Notwithstanding section 212, first paragraph, of the Criminal Procedure Act, the court will determine which documents etc. it is to examine.

§ 4
If the Ministry applies for search or seizure for the purpose of obtaining information on a matter with which the person concerned has been charged or for which he has been indicted, the application shall be dealt with as a separate matter in accordance with the provisions of section 3, second paragraph. The same applies if the Ministry applies to see documents etc., that are in the possession of the court or the prosecuting authority without a decision having been made as to whether they may be used in a criminal case. If the court upholds the Ministry’s application, it may lay down as a condition that the information is not to be used in connection with the investigation of the criminal case until a final decision has been made as to whether the prosecuting authority may make use of it in the said case. If the prosecuting authority’s application is not upheld, the Ministry may not hand over the information or the documents to the prosecuting authority unless this is lawful under the provisions that otherwise apply to their duty of secrecy in respect of criminal acts.

§ 5
Unless the matter is subject to more severe penal provisions, any person who wilfully:
1. exports or attempts to export goods, technology or services in contravention of this Act or regulations issued pursuant thereto, or
2. contravenes or attempts to contravene any condition laid down pursuant to this Act, or
3. orally or in writing furnishes incorrect information concerning circumstances of significance for authorisation to export goods, technology or services if this information is furnished:
   a. in a declaration made for use by a public authority or anyone acting on behalf of a public authority in connection with export or an application for permission to export,
   b. in a declaration intended to enable another person to make such a declaration as is mentioned under litra a, or
4. in any other way contravenes or attempts to contravene provisions set out in or issued pursuant to this Act,

is liable to fines or a term of imprisonment not exceeding five years, or both.

Complicity in any offence such as is mentioned in the first paragraph is subject to the same penalty.

Any negligent contravention of the matters mentioned in the first paragraph, or complicity in such contravention, is punishable by fines or a term of imprisonment not exceeding two years.

§ 6
(Repealed by Act of 20 July 1991 No. 66)

§ 7
If an enterprise or person does not comply with the duty to provide information set out in section 2, the Ministry may order the payment of a continuous daily fine until this duty has been fulfilled.

The amount of the coercive fine to be paid is set taking into account how important it is to ensure compliance with the order.

An order to pay a coercive fine is enforceable by execution proceedings.

The King will issue further regulations on imposing, calculating and remitting coercive fines.

§ 8
This Act enters into force immediately. The regulations relating to control of strategic exports issued pursuant to Provisional Act of 13 December 1946 No. 30 relating to Export Control apply until further notice.

The Act is not applicable to permission granted prior to its entry into force. Services rendered and transfers of technology etc. effected after the entry into force of the Act nevertheless require permission in accordance with this Act even if they are related to permission which has previously been granted.
Regulations to the implementation of control of the export of strategic goods, services and technology

Laid down by the Ministry of Foreign Affairs on 4 July 2007 pursuant to the Act of 18 December 1987 No. 93 relating to control of the export of strategic goods, services, technology, etc., cf. Royal Decree of 18 December 1987 No. 967 on delegation of authority pursuant to the Act of 18 December 1987 No. 93 relating to control of the export of strategic goods, services, technology, etc.

§ 1

a. Permission from the Ministry of Foreign Affairs is required for the export of certain goods, specific technology, including intangible transfers of technology, technical data and production rights for goods, and certain services (licensing requirement). Permission is given in the form of an export licence either on the prescribed form or in the form of a letter, cf section 4. The licensing requirement also applies to the export of such goods from bonded warehouses.

b. The Ministry of Foreign Affairs will draw up lists of these goods and appurtenant technology. In cases of doubt, the Ministry will decide whether or not the goods or technology is subject to the licensing requirement. The Ministry may amend the lists.

c. The lists comprise the following:
   
   List I: Weapons, ammunition, other military materiel and appurtenant technology.

   List II: Strategic goods and appurtenant technology not included in List I.

d. Permission from the Ministry of Foreign Affairs is required for services connected with goods and technology included in Lists I and II, and any other services, provided abroad or in Norway for use abroad, that may directly serve to develop a country's military capability.

e. The Ministry of Foreign Affairs may require end-user declarations in connection with the export of goods and technology included in Lists I and II, or any services provided in connection with such goods or technology.

f. Notwithstanding the Ministry of Foreign Affairs' lists, a licence is required for export of any goods, technology or service for military purposes to areas where there is a war or the threat of war, or to countries where there is a civil war.

g. Notwithstanding the Ministry of Foreign Affairs' lists, a licence is required for export of any goods, technology or service in cases where the exporter knows that or has reason to believe that such goods, technology or service are or may be intended, in their entirety or in part, for use in connection with the development, production, maintenance, storage, detection, identification or proliferation of nuclear, chemical or biological weapons or other nuclear explosive devices.
Corresponding provisions apply in connection with the development, production, maintenance or storage of missiles that can deliver such weapons.

h. Notwithstanding the Ministry of Foreign Affairs' lists, a licence is required for export of any goods, technology or service for military use to areas that are subject to an arms embargo adopted by the UN Security Council pursuant to Chapter VII of the Charter of the United Nations.

i. Trading in, negotiating or otherwise assisting in the sale of military goods and technology included in List I from the Ministry of Foreign Affairs from one foreign country to another is not permitted without a licence from the Ministry. Corresponding provisions apply in connection with negotiations for goods included on List II, and for appurtenant technology and services if it is known or there is reason to believe that such goods, technology or service are or may be intended, in their entirety or in part, for use in connection with the development, production, maintenance, storage, detection, identification or proliferation of nuclear, chemical or biological weapons or other nuclear explosive devices, and in connection with the development, production, maintenance or storage of missiles that can deliver such weapons.

§ 2

An export licence will not be granted on the basis of considerations such as the fact that binding agreements have been entered into or that payment has been received. Sales of goods for which a licence is required to other countries should always include a proviso stating that the sale is subject to a successful application for an export licence.

§ 3

The following are exempted from the licensing requirement in section 1:

a. goods that are returned to a foreign owner after temporary import to Norway for exhibition or demonstration. This exception does not apply to goods in List I,

b. rescue equipment and oil response equipment exported in connection with rescue operations,

c. firearms, parts of firearms and ammunition exported in accordance with part VI of the Regulations of 25 January 1963 No. 9722 relating to firearms, weapon parts and ammunition,

d. goods exported to the European Space Agency (ESA), or its representative, and that are strictly necessary for the official activities of the organisation. The exception applies only to deliveries to member states of ESA,
e. goods that are solely destined for transport across Norwegian customs territory, if both sender and recipient are outside Norwegian customs territory. This exception does not apply to goods in List I,

f. goods, technology and services for the use of the Norwegian population or Norwegian enterprises on Svalbard and Jan Mayen,

g. goods, services and technology for use on the Norwegian continental shelf,

h. goods, services and technology for use on board Norwegian-owned ships sailing under the Norwegian flag or Norwegian-owned aircraft engaged in international trade,

i. exports by the Norwegian defence authorities, provided that the right of ownership to the goods is not transferred and the goods are to be used by Norwegian forces abroad or the recipient is a defence authority in a NATO or EU member state. This exemption also applies to goods that Norwegian defence authorities send out of the country for repair, maintenance, updating, and so on, and that are to be returned to Norway. Pursuant to these provisions, the defence authorities shall by 15 February each year send a report to the Ministry of Foreign Affairs on all exports such as are mentioned above that took place in the previous calendar year,

j. military materiel included in List I that is owned by a defence authority in a NATO or EU member state and that is being returned abroad after temporary import to Norway in connection with an exercise or training.

§ 4

Permission from the Ministry of Foreign Affairs for the export of goods subject to the licensing requirement under section 1 of these regulations is given in the form of an export licence on submission of an application on the prescribed application form. Applications and licences may be transmitted electronically.

Applications for permission to export such technology or services such as are mentioned in section 1 are to be submitted in the form of a letter. A licence will also be issued in the form of a letter.

Applications to engage in negotiations on the sale of technology or services such as are mentioned in section 1, subsection i, are to be submitted in the form of a letter. A licence will also be issued in the form of a letter.

The exporter is obliged to furnish any information or documentation the Ministry of Foreign Affairs deems necessary for the processing of the application.

The application shall be signed by the exporter or by any person authorised to act on the exporter’s behalf.

§ 5
An export licence for goods and technology, or for the provision of services, may not be transferred to another person without the permission of the Ministry of Foreign Affairs.

§ 6

The exporter shall ensure:
- that goods, technology and services exported are in accordance with the licence granted,
- that goods, technology and services exported are delivered to the destination stated in the licence,
- that the quantity or description of goods, technology or services exported does not deviate from the quantity or description stated in the export licence,
- that the export is effected within the period for which the export licence is stated to be valid,
- that any special conditions set out in the export licence have been met.
§ 7

A valid export licence from the Ministry of Foreign Affairs shall be obtained before the export of goods to which the licensing requirement applies. The exporter shall ensure that the export is in accordance with the valid export licence, see section 6. The Ministry of Foreign Affairs or the customs authorities may order the exporter to produce documentation of any consignment exported or any licence issued pursuant to these regulations for control purposes.

§ 8

Applications for an extension of the period for which a licence is valid shall be sent to the Ministry of Foreign Affairs accompanied by a statement explaining the reasons for the application. The same applies to applications for an alteration to a licence. An application shall be submitted in the form of a letter. Applications and licences may also be transmitted electronically.

An export licence may only be altered by the Ministry of Foreign Affairs.

§ 9

If a licence that has been granted is not used, or cannot be used in accordance with the conditions specified in it, the licence shall immediately be returned to the Ministry of Foreign Affairs accompanied by a statement explaining why it cannot be used.

§ 10

The exporter or the person authorised to act on the exporter’s behalf shall notify the Ministry of Foreign Affairs immediately in the event that a valid licence is lost.

§ 11

The exporter (licence holder) shall retain the used licence for ten years after the expiry date of the licence. The Ministry of Foreign Affairs may require the exporter to produce the licence for control purposes.

§ 12

Conditions may be set for the granting of a licence. These conditions shall be compatible with the purpose of the Act of 18 December 1987 relating to control of the export of strategic goods, services, technology, etc.

§ 13
A licence granted pursuant to these regulations may be revoked if the exporter to a considerable extent misuses the licence or to a considerable extent fails to fulfil the terms specified therein. A licence may also be revoked if new information or changes in the facts become known, or the political situation in the recipient state or area changes, and this significantly alters the basis on which permission was granted. The general rules concerning the reversal of individual decisions also apply.

§ 14

The Ministry of Foreign Affairs may grant exemptions from these regulations.

§ 15

These regulations enter into force on 15 February 1989.
Information on amendment of Regulations to the implementation of control of the export of strategic goods, services and technology

The Norwegian Ministry of Foreign Affairs is pleased to inform the United Nation Office for Disarmament (ODA) that the Regulations to the implementation of control of the export of strategic goods, services, technology, has been amended. The amended legislation entered into force on 4 July 2007. The amended regulations are attached hereto.

The amendments are as follows:

§ 1 letter g of the Regulations concerning catch-all controls of dual-use goods, technology or services which are or may be intended for use in a WMD or missile program has been strengthened as follows (new language is underlined):

g. Notwithstanding the Ministry of Foreign Affairs’ lists, a licence is required for export of any goods, technology or service in cases where the exporter knows that or has reason to believe that such goods, technology or service are or may be intended, in their entirety or in part, for use in connection with the development, production, maintenance, storage, detection, identification or proliferation of nuclear, chemical or biological weapons or other nuclear explosive devices. Corresponding provisions apply in connection with the development, production, maintenance or storage of missiles that can deliver such weapons.

In § 1 letter i of the Regulations, controls on brokering of arms and military equipment has been strengthened and controls on brokering of dual-use goods intended for use in connection with a WMD or missile program has been introduced. In the first part of the provision, the previous reference to “permanent residents, Norwegian companies, organisations ...” has been deleted so that the new provision now applies to all legal entities under Norwegian jurisdiction, including Norwegian nationals acting abroad. By this amendment, Norway has introduced an element of extravertoritality in her brokering controls. The amended provision reads as follows (the new language regarding dual use brokering control is underlined):

i. Trading in, negotiating or otherwise assisting in the sale of military goods and technology included in List I from the Ministry of Foreign Affairs from one foreign country to another is not permitted without a licence from the Ministry. Corresponding provisions apply in connection with negotiations for goods included on List II, and for appurtenant technology and services if it is known or there is reason to believe that such goods, technology or service are or may be intended, in their entirety or in part, for use in connection with the development, production, maintenance, storage, detection, identification or proliferation of nuclear, chemical or biological weapons or other nuclear explosive devices, and in connection with the development, production, maintenance or storage of missiles that can deliver such weapons.

Please note that List I refers to arms, military goods and technology, and List II refers to dual-use goods and technology.