Information on the Republic of Moldova's national legislation, regulations and procedures on the transfer of arms, military equipment and dual-use goods and technology

INTRODUCTION

Export control of strategic goods represents one of the major aspects of international security and serves both for national interest and interests of the international community.

Existence of a developed export control regime of strategic goods and national bodies, capable effectively to operate this sphere, presents one of the conditions for accession of the Republic of Moldova in different international organizations.

The creation of an effective export control system and the belonging of the Republic of Moldova to the international export control regimes, permits the access of our country to modern equipment, installations, software, high technologies necessary for the process of restructuring of national industry.

LEGISLATIVE BASIS

The export control regime in the Republic of Moldova was established in May, 1995 in conformity with the Government Decision No. 283-1.

During the next years the National System of Export Control became more developed and improved.

As a result of this development became the approval by the Parliament of the Law on export, re-export, import and transit control of strategic goods (No. 1163-XIV from 26th July 2000).

This Law establishes a strict procedure of tracking the export control of strategic goods, crossing the customs territory of the Republic of Moldova.

For the implementation of the Law no. 1163-XIV, the Moldovan Government approved the Decision No. 606 from 15th May 2002 "About the National System of export, re-export import and transit control of strategic goods in the Republic of Moldova".

By this Decision, the Government approved:

The Statutes of the Interdepartmental Commission of control of export, re-export, import and transit of strategic goods (Annex 1);

The Regulation about the control regime of export, re-export, import and transit of strategic goods (Annex 2);

The National Control List of strategic goods (Annex 3)

The Criminal code of Republic of Moldova in Article 140/1 establishes liable for:

- the use, development, or acquisition; the processing, possession, accumulation or conservation; the direct or indirect transmission, storage, or transportation of chemical weapons, biological weapons, nuclear weapons, nuclear explosive devices, or other weapons of mass-destruction that violate provisions of national legislation or of international treaties to which the Republic of Moldova is a party;
- the design, production, or acquisition; the possession, storage, transmission, or transportation of equipment, material, software, or related technology essentially contributing to the design, production, or delivery of weapons of mass destruction, being aware that the equipment, material, software, or technology serve this purpose;
- the design, production, or acquisition; the possession, storage, transmission or transportation of raw materials, special fissileable materials, equipment or material designed or prepared for processing; the use or production of the special fissileable material, being aware that this raw material, material, or equipment is intended for use in activities related to nuclear explosions or to other nuclear activities conflicting with international treaties to which the Republic of Moldova is a party.

The Republic of Moldova signed a number of international conventions and agreements, which have direct relation to the problems of nonproliferation and determine the necessity of
creation and development of the National System of Export Control:

- Treaty of conventional armed forces in Europe.
- Convention regarding maximal levels for conventional arms and quantity of technologies in connection with Treaty of conventional armed forces in Europe.
- Treaty of the non-proliferation of nuclear weapons.
- Convention of the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction.
- Convention of marking of plastic explosives for the purpose of detection.
- Convention on the prohibition of the development, production and stockpiling of bacteriological (biological) and toxin weapons and on their destruction.
- Convention on Cluster Munitions.
- Convention of the prohibition the use, stock, produce and transfer of antipersonal mines and their destruction.
- Convention of the prohibition and use restriction of some classic arms that can be considered as productions of excessive trauma effects or hitting with no differentiation.

NATIONAL AUTHORIZED BODIES

The Interdepartmental Commission of control of export, re-export, import and transit of strategic goods represents the permanent Government body supervising the sphere of strategic goods circulation control and is responsible for the applying of the Government policy in this area.

The Interdepartmental Commission includes responsible officials of the Ministry of Economy, Ministry of Defense, Ministry of Foreign Affairs and European Integration, Ministry of Internal Affairs, Ministry of Agriculture and Food Industry, Service of Information and Security, Customs Service.

The Commission is headed by the Minister of Economy.

The Interdepartmental Commission has the following functions:

> Reviews proposals with regard to signing or adhering to inter-state and inter-government bilateral and multilateral agreements on nonproliferation of weapons of mass destruction and other strategic goods;

> Implements controls on fulfilling the obligations assumed pursuant to international and intergovernmental agreements on nonproliferation and the control of movements of weapons of mass destruction and other strategic goods;

> Deliberates and makes decisions with regard to issuing export, re-export, import and transit authorizations of strategic goods through the territory of the Republic of Moldova;

> Decides on suspending the authorizations of export, re-export, import and transit of strategic goods in those cases where the authorization holders violate the existing legal provisions in a specific area or infringe upon provisions, which derive from international agreements and from the national policy with regard to the control of movements of strategic goods.

If necessary, the Commission establishes working groups, which include representatives from other ministries and agencies, in order to review and draft proposals for the solution of specific problems that might arise in the licensing process.

The authorized by the Government body, responsible for the control of export, re-export, import and transit of strategic goods, which issues authorizations and certificates in this area is the Division of dual-use goods circulation control within the Ministry of Economy. The Division, also represents the specialized body which ensure the activity of the Commission.

In order to attain its main objectives, the Division has the following main functions
(selective):

a) **regulation**: initiates normative act projects, works out regulations in common with other competent authorities, works out methodological norms, mechanism and procedures and instructions specifically for export control in accordance with international demands; initiates in common with competent institutions, bringing up to date of the National Control List in accordance with assumed international arrangements by the Republic of Moldova.

b) **authorization**: verifies, in written or factual, by case, the relevant aspects regarding settlement, performing or ending strategic goods transactions, as well as respecting their destination and end-use, involving, when it is necessary, the ministries, departments and interested organizations; evaluates and accepts, by case, the international import certificates and end-user certificates or equivalent documents or certificates released by competent authorities from the importer partner's country with the view of releasing export authorization for strategic goods; releases international import certificate, end-user certificate or equivalent document, as well as delivery verification certificate of imported strategic goods; examines and approves demands for authorization regarding export, re-export or import of strategic goods; issues, on the base of Commission's decision, authorizations for export, re-export, import and transit of strategic goods.

c) **control**: verifies conformity and exactness of declarations of the persons who carry on transactions with strategic goods; imposes, in case of violation the provisions of the regulations with the help of competent organs; stopping or interdiction of performing operations of export, re-export, import, transit, reloading or other strategic goods transfer, as well as penalizing persons guilty of this violations.

d) **representation**: represents the Republic of Moldova within the framework of activities unfolded by responsible international organisms in the field of control the export, import of strategic goods; initiates, in cooperation with competent ministries and departments of the Republic of Moldova, actions of promoting interests of the Republic of Moldova in relationships with international organisms in this field.

e) **informing and consultation**: organizes, with the support of ministries, departments and organizations from the Republic of Moldova and abroad, programs of informing economic agents in connection with principles, objectives, norms and procedures regarding regime of export, re-export, import and transit control of strategic goods; grants, at the demand, specialized consultation to economic agents and to other persons interested in performing operations of export, re-export, import or other operations with strategic goods that are under control regime regulated by national legislation; cooperates with similar authorities from other states for the purpose of mutual informing and consultation in case of demand to release authorization for export, re-export, import and transit of strategic goods if solid indexes exist regarding possibility of utilization of this in other purposes than those declared; bringing up to date and uniform application of regulations on this matter, inclusively of the National Control List; notification of violation of the control regime with the view of penalizing guilty persons by competent organs from every state.

**MECHANISM OF EXPORT, RE-EXPORT, IMPORT AND TRANSIT OF STRATEGIC GOODS AUTHORIZATION**

In order to obtain an export, re-export, import or transit authorization, the Applicant should address to the Ministry of Economy by handing in an application, annexing the following documents:

a) copy of the document that certifies the registration of the applicant as an economic agent;

b) copy of the license (if the field of activity involves licensing);

c) documents that certify the origin of items;

d) documents regarding qualitative and technical characteristics of items, and if possible, the code of respective items in accordance with the Control List;
e) contract and its copy signed with foreign company that imports or exports strategic goods;
f) copy of license, attested in stated way, that certifies the permission for foreign company to carry on operations of export-import with strategic goods, released by authorized body of the country where the company is registered;
g) End-User Certificate (at the demand of Division);
h) International Import Certificate (at the demand of Division).

The Division after receiving application and mentioned documents consults with other ministries and departments involved in control procedure with the view of verifying presented documents. After previous examination of application the documents and the conclusions with reference to transaction are presented to the Interdepartmental Commission. In case when different opinions appear with reference to transaction, the decision for issuing authorization is taken by the majority of Commission member's votes.

The Department, in conformity with the Commission's decisions, will issue or deny the authorization of export, re-export, import or transit of strategic goods, and notify the applicant of its decision within 30 days, after receipt of the complete documentation needed to apply for an export, re-export, import and transit authorization.

In the event that a longer period is necessary to review the information forwarded with the application for an export, re-export, import or transit authorization of strategic goods, the Division may extend this period for an additional 30 days and notifies the applicant within 5 days that the decision period has been extended. Thus, the maximum period of applications' review is 60 days.

CONTROL LIST OF STRATEGIC GOODS

According to the Law no. 1163-XIV from 26th July 2000, the term "strategic goods" includes:
(a) dual-use (civilian and military) goods, technologies and services;
(b) armaments, munitions, military equipment and the technologies and services associated with them;
(c) goods, technologies, and services that can be used in the production and use of nuclear, chemical and biological weapons and of missiles that can be used as delivery vehicles for those weapons;
(d) other goods, technologies and services that require special control in the interests of national security or foreign policy, as well as in compliance with international agreements and commitments signed by the Republic of Moldova;

As basis for the National Control List of the Republic of Moldova was taken the European Union Control List.
The National Control List includes all goods control by international export control regimes and is formed from two parts:

Part I "Dual-Use Goods and Technologies List", which includes 10 categories:
Category 0 - nuclear materials, facilities and equipment.
Category 1 - materials "chemicals", "toxins" and "microorganisms".
Category 2 - materials, processing.
Category 3 - electronics.
Category 4 - computers.
Category 5 - communications and "information security".
Category 6 - sensors and lasers.
Category 7 - navigation and avionics.
Category 8 - marine.
Category 9 - propulsion systems, space vehicles and related equipment.

Part II "List of weapons and munitions".
LIST OF DOCUMENTS ISSUED BY THE DEPARTMENT

Export Authorization - sole authorization to transfer controlled strategic goods from the customs territory of the Republic of Moldova with intent to permanently locate them on another country's territory.

Re-export Authorization - sole authorization to transfer strategic goods whose country of origin is other than the Republic of Moldova, from its customs territory or to export from the territory of another country strategic goods, whose country of origin is the Republic of Moldova, to third countries.

Import Authorization - sole authorization to import strategic goods into the customs territory of the Republic of Moldova.

Transit Authorization - sole authorization to convey strategic goods through the customs territory of the Republic of Moldova.

International Import Certificate - a document certifying that the importer holds an import permit for strategic goods, the main purpose of which is to be exhibited to government authorities that implement the control of the strategic items export in the country where the strategic items are exported from.

Delivery Verification Certificate - a document certifying that the controlled strategic goods specified in the authorization are being legally imported into the customs territory of the Republic of Moldova.

End-User Certificate - a document certifying that the exported, re-exported or imported strategic goods will be used in compliance with the terms and conditions provided for in the export, re-export or import authorization, issued by the involved agency in the Republic of Moldova or by another foreign authority involved in the control of the transactions in strategic goods.