REPORT OF HUNGARY

ON THE LEGAL REGULATION OF EXPORT, IMPORT, TRANSFER AND TRANSIT OF MILITARY EQUIPMENT AND TECHNICAL ASSISTANCE

As of 1 January 2012 foreign trade in military items has been regulated by Government Decree 160/2011 (VIII. 18.) on the licensing of the export, import, transfer and transit of military equipment and related services and the certification of undertakings.

Annex 1 of Government Decree 160/2011 (VIII. 18.) – hereinafter referred to as Gov. Decree – includes the equipment and technologies listed in the Common Military List of the European Union (EU CML, adopted on 21 February 2011), but also expands the regulation to other equipment not included in the EU CML such as:

Chapter 23: Equipment specially designed for military use
Chapter 24: Military related services
Chapter 25: Instruments of coercion and crime surveillance
Chapter 26: Secret service devices

Commercial activities in connection with the export, import, transfer and transit of military equipment and the provision and use of military services shall be subject to licences issued by the Authority. Licences may be issued to:

a) a sole enterprise or business organisation, including business organisations with foreign participation, the Hungarian branch or commercial representation of an undertaking established abroad, excluding, however, organisations established in a free trade zone,

b) self-employed persons registered in the registry of self-employed persons,

c) budgetary authority registered in the registry of budgetary authorities and

d) in case of cross-border services an undertaking registered in any European Union Member State or any other State that is a party to the Agreement on the European Economic Area.

The Authority shall decide on the application for a licence and the application for a certificate – with the exception of an application for a transit licence – within 90 days.

Exemptions

No licence shall be necessary, if

(a) the military equipment is transported across the territory of the Republic of Hungary in accordance with movement of military troops approved by the National Assembly or the Government or with obligations explicitly authorised by international agreements,

(b) the supplies are made by the European Union, NATO, or the IAEA for the performance of their tasks;

(c) the transportation

(ca) is in the framework of international assistance under Section 3(d) of Act LXXIV of 1999 on the management and organisation of disaster prevention and protective measures relating to accidents with hazardous substances,
(ca) is in the framework of a disaster under Section 3(e) of Act LXXIV of 1999 on the management and organisation of disaster prevention and protective measures relating to accidents with hazardous substances,

(cc) is in connection with humanitarian assistance or donations provided in the event of a disaster or other emergency situation abroad or for the purpose of transporting military equipment across the territory of the Republic of Hungary for the purpose of joint exercises or presentations.

The provisions of this Decree shall be applicable to matters not covered by Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

The Authority shall publish on its web site a sample of application forms and documents to be applied in the event of authorising export, import, transfer and transit of military equipment and in the event of authorising and licensing the provision and use of military services.

**Working Group on Foreign Trade in Military Equipment**

Members of the Working Group are consulted to give expert opinion with regard to applications, and the Hungarian Trade Licensing Office (HTLO) takes into account these opinions when issuing the activity licences, negotiating licences and contract licences.

The members of the Working Group are experts assigned by the Minister of Foreign Affairs, the Minister of National Economy, the Minister of Defence, the Minister of Public Administration and Justice, Minister of Interior, the national security agencies and the National Tax and Customs Administration.

The Ministry of Foreign Affairs and the HTLO are entitled to provide data in accordance with international obligations without any further authorisation. Once a year, the Minister of National Economy reports to the Parliamentary Defence Committee, the Foreign Affairs Committee and the National Security Committee on the licensing activities of conventional arms trade.

The HTLO and the National Tax and Customs Administration are authorised to supervise the activities regulated in the Gov. Decree as well as to check compliance with conditions laid down in the licences.

**Restrictions**

The export and transit of military equipment and technical assistance is not permissible

a) if the transaction is contradictory to Hungary’s international obligations,

b) if the transaction is contradictory Hungarian national economic interests,

c) if the transaction infringes national security interests,

d) if the transaction interferes with the activities of defence, law enforcement and national security agencies that are defined in legislation,

e) if the transaction is contradictory to the criteria defined in Annex 2.
The HTLO shall revoke the licence in case such changes have occurred since the issuance of the licence that would result in the denial of an application. The HTLO may revoke the licence in case the licence holder infringes the regulations defined in Gov. Decree, the conditions set out in the licences or the regulations of various legislations regulating the trade activities. In cases c) and d) the HTLO omits the justification of the decision.

Types of Licences

The 3-tier licensing system of the foreign trade of military equipment follows a very strict procedural sequence, where the listed stages are non-interchangeable:

1. **Activity Licence (i.e. registration of traders)**

This licence entitles the licence holder to engage in the preparatory activities (market research, making an offer/tendering, preparatory negotiations) linked to the export, import, transfer and transit of military equipment and to the provision and use of military services.

2. **Negotiation Licence**

Contracts concerning the export and re-export of military equipment and the provision of services to third countries – except for the States that are parties to the Agreement on the European Economic Area (‘EEA States’) and Switzerland - may exclusively be concluded subject to a negotiation licence, with the partner and in respect of the military equipment and service specified in the licence.

3. **Transfer Licence**

Contracts concerning the export, import and transfer of military equipment and the provision and use of military services may only be performed subject to a transfer licence. Types of transfer licences include:

    (a) general,
    (b) global or
    (c) individual.

**General Transfer Licence**

In order to provide for the safety of supply and promote regular industrial and intergovernmental cooperation the HTLO may publish a general transfer licence on its webpage concerning the reception and delivery of specific military equipment and the provision and use of military services in the following cases:

- reception and delivery for Hungarian defence and law enforcement and for national security bodies and certified undertakings,
- in the case of reception and delivery not involving foreign currency and involving temporary movement of goods for repair under warranty, exhibition, presentation and testing.

**Global Transfer Licence**

At the request of applicants, the HTLO may issue a global transfer licence for multiple military equipment or services and permanent production or marketing connections for contracting parties or end users established in an EEA State or Switzerland.

**Individual Transfer Licence**
The Authority may issue an individual transfer licence on request in cases that do not fall under the general or global transfer licences.

**Brokering Licence**
In order to control arms brokering and to avoid circumvention of UN, EU or OSCE embargoes on arms exports, as well as of the Criteria set out in the European Union Council’s Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment, the Gov. Decree takes into account the recommendations and Best Practice Guidelines of the relevant international organizations and the Common Position 2003/468/CFSP on the control of arms brokering adopted by the Council of the European Union on 23 June 2003. Following the recommendations of Common Position 2003/468/CFSP it has become a core element of the Gov. Decree that Hungary controls brokering activities both inside and outside of her territory, carried out by brokers who are Hungarian residents or established in the territory of the Republic of Hungary.

As well as in case of exports, all brokering applications are assessed, inter alia, against the same set of criteria that applies for export applications. The brokering licence is applicable to a single transaction. In connection with Section 8 of the brokering licence, on grounds of national security and national economic interest or in order to verify the end user or the end use and with due regard to all the circumstances, the HTO may set ad hoc conditions in respect of end use, resale and retransfer for the transaction.

**Transit Licence**
The transit applications are assessed against the same set of criteria that applies for export applications.
The transit of military equipment listed in Annex I, Chapter I, points (a)-(c), Chapter II, points (a) and (b), Chapters III and IV, Chapter VII, points (a), (f), (h) and (i) and Chapter VIII is subject to a transit licence.

The transit of military equipment listed in Annex I is subject to a transit licence, provided that both the country of dispatch and the country of destination are third countries, excluding EEA States and Switzerland.

**Certification**
In the course of the certification procedure the reliability of the undertaking is examined. An undertaking is considered reliable provided it:

a) has had a valid activity licence for at least two years and a licence valid under Act CIX of 2005 on the licensing of the manufacture of military equipment and provision of military technical services,

b) has fully complied with the legislative provisions of Act CIX of 2005 on licensing of the manufacture of military equipment and provision of military technical services and of military foreign trade and the provisions of the internal compliance programme,

c) the competent senior executive appointed in the internal compliance programme
   - gives a written undertaking that the undertaking will take all the necessary measures to comply with and implement any of the requirements concerning the end use of any of the parts or of the military equipment transported,
   - gives a written undertaking to provide the competent authorities with detailed information in response to requests and inquiries concerning the end-users or
end-use of all military equipment exported, transferred or received under a transfer licence from another Member State  
- declares in writing that the military equipment taken over will be used for the undertaking's own manufacturing purposes and activities.

Undertakings certified by the HTLO shall have the right to take over military equipment specified in the certificate under a general transfer licence. The certificate shall apply to military equipment and the use of services which are necessary for the undertaking's manufacturing activities. No certification is necessary for defence, law enforcement and national security bodies. The HTLO shall check the undertaking within one year following first certification. The HTLO shall check certified undertakings if necessary, and at least once every three years.

The HTLO shall issue the certificate in Hungarian and English language pursuant to Article 9 of 2009/43/CE of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community in accordance with the conditions of Commission Recommendation of 11 January 2011 on the certification of defence undertakings under (2011/24/EU). Certification may be issued for a maximum of five years.

The HTLO shall publish the list of undertakings it certified in both Hungarian and English languages on its webpage and provide for its uploading into the electronic database established for this purpose by the European Union, as well as for the withdrawal of the general operation licence. In the case of changes the HTLO shall re-evaluate the certificate.

If an undertaking does not comply with the requirements of certification, the HTLO shall suspend certification with due regard for all the circumstances of the case and of the principles of proportionality. On suspending certification the HTLO shall oblige the undertaking to take corrective measures, and then monitor completion of these. If the undertaking does not take the required corrective measures within three months from suspension, the HTLO shall withdraw the certification.

**Record keeping and reporting**

Every quarter the undertakings shall send data on a cumulative basis to the HTLO about  
- the operations under the general transfer licence,  
- the completed brokering licences.

The undertaking shall keep an updated register with the following data:  
- type of military equipment,  
- amount and value of military equipment,  
- transportation dates,  
- name, address and place of registration of the addressee and the end user,  
- the end use of the military equipment, if known, and  
- proof that the information on export limitations attached to the transfer licence have been transmitted to the recipient of the military equipment.

**Penalties**

The Penal Code of Hungary (261/A§, 263/A§, 263/B§, 287§. and 298.§.) classifies the violations of Government Decree 16/2004. (II.6.) as criminal acts, accordingly the
infringement with military equipment and dual-use goods (acquisition, providing services, trading activities without the necessary documentation) is punishable by administrative fees and from 2 to 8 years of prison terms, while the punishment increases from 5 to 10 years in case the mentioned activities are carried out businesslike or in conspiracy.

EXPORT CONTROLS ON DUAL-USE ITEMS

Member States of the European Union recognised that they have significant national security interests, national and international responsibility to prevent the proliferation of weapons of mass destruction. That is why a common system of export controls of dual-use items was developed which ensures that Member States comply with their international commitments and non-proliferation responsibilities.

On the one hand these goods and technologies bear important economic interests and are subject to intense international trade; thus they fall under the scope of the common trade policy in the EU. On the other hand trade with these items touch (national and EU’s) security and foreign policy aspects which fall under the auspices of the common security and defence policy, due to their possible military end-use or their contribution to programmes of weapons of mass destruction.

Goods and technologies are called dual use when they are originally planned or developed for civil purposes, but due to specific technical characteristics or parameters they may be used for developing, producing or using weapons of mass destruction.

Legal basis


Council Regulation specifies at Community level the control mechanisms and measures regarding exports, transfer, brokering and transit of dual-use items besides the related rules of procedure; furthermore it contains the list of the controlled items. Council Regulation No 428/2009 has direct effect and is directly applicable in all Member States.

Annex I. of Council Regulation (EC) No 428/2009 contains the list of dual-use items subject to controls (Annex IV. is a subset of Annex I. which contains the list of items controlled inside the EU).

For the implementation of the Council Regulation the Government has adopted Government Decree No. 13/2011 on licensing of foreign trade in dual-use goods. Besides containing the national implementing provisions of the Council Regulation – the decree regulates also specific cases where the import of dual-use items is also controlled. This regulation currently in force is here below:
Government Decree No 13/2011 (II. 22.)
on the foreign trade authorisation of dual-use items

By virtue of the authorisation granted under Article 140/E(1) and (3) of Act XXIX of 2004 on Amendments and Repeals of Legal Regulations and other Legislative Changes Related to Hungary’s Accession to the European Union, and acting within its scope of duties specified in Article 35(1)(b) of the Constitution, the Government hereby passes the following decree:

CHAPTER I
GENERAL PROVISIONS

1. Scope of the Decree

Article 1

(1) The scope of this decree shall include the following:
(a) export and transfer within the European Union of dual-use items falling within the scope of Council Regulation (EC) No 428/2009;
(b) brokering services concerning dual-use items falling within the scope of Council Regulation (EC) No 428/2009;
(c) transit of dual-use items falling within the scope of Council Regulation (EC) No 428/2009 through the customs territory of the European Union;
(d) import of dual-use items falling within the scope of Council Regulation (EC) No 428/2009 from non-EU countries into the territory of the Republic of Hungary, and the import of any other dual-use items, if the competent authority of the exporting country requires the official guarantee (International import certificate) of the state of Hungary for the approval of the export, and
(e) transfer to or from the territory of the Republic of Hungary of chemicals falling within the scope of Annex I to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction signed in Paris on 13 January 1993 (hereinafter referred to as Chemical Weapons Convention) promulgated by Act CIV of 1997.
(2) This decree shall be applied jointly with Council Regulation (EC) No 428/2009.

2. Definitions

Article 2

For the purposes of this decree

1. Import shall mean
(a) commercial transactions, in the course of which non-Community goods from outside the customs territory of the European Union the are imported into the territory of the Republic of Hungary, including import to a customs free zone or transit territory;
(b) the import of goods imported for inward processing under Article 114, the temporary import of goods under Article 137, the returning of goods exported for outward processing under Article 145, and the import of returned goods under Article 185 of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (hereinafter referred to as Community Customs Code) from outside the customs territory of the European Union, or
(c) the transfer of software or technology via electronic devices, fax or telephone to the territory of the Republic of Hungary from outside the customs territory of the European Union.

2. Import declaration shall mean the act whereby a person indicates in the prescribed form and manner the wish to place dual-use items under an import procedure.
3. Consignee shall mean the person who, irrespective of the nature of the commercial transaction, imports the dual-use item and has the right of disposal concerning the item.


5. Importer shall mean the person:
   (a) on whose behalf an import declaration is made;
   (b) the person who, at the time when the declaration is accepted, holds the contract with the contracting party in the third country outside the European Union and has the power for carrying out the import of the item to the customs territory of the Republic of Hungary from outside the customs territory of the European Union and, if no import contract has been concluded or if the holder of the contract does not act on its own behalf, the importer shall mean the person who has the power for carrying out the import of the item to the customs territory of the Republic of Hungary, or
   (c) who decides to import software or technology by electronic media, by fax, telephone to the territory of the Republic of Hungary.

6. Foreign trade shall mean the result of the foreign trade transaction of the undertaking.

7. Technical assistance shall mean technical activities relating to repair, development, manufacturing, assembly, maintenance, and any other technical service, which may include instructions, skills, training, working knowledge and consulting services, including verbal support.

8. National General Export Authorisation shall mean, according to Article 2(11) of Council Regulation (EC) No 428/2009, the export authorisation granted for a specific good and a specific destination (destinations), under which the exporter may conduct foreign trade activities without completing a separate authorisation procedure.

9. International non-proliferation obligation: the Australia Group, the Missile Technology Control Regime, the Nuclear Suppliers’ Group, the Wassenaar Arrangement, the Zangger Committee, and the Chemical Weapons Convention, the Treaty on the Non-Proliferation of Nuclear Weapons adopted on 12 June 1968 in its 22nd session by the General Assembly of the United Nations and promulgated by Law decree 12 of 1970, the Convention on the prohibition of the development, production and stockpiling of bacteriological (biological) and toxin weapons and on their destruction adopted on 10 December 1971 in its 26th session by the United Nations and promulgated by Law decree 11 of 1975 (hereinafter referred to as Biological and Toxin Weapons Convention).

10. Nuclear dual-use item shall mean the items listed under numbers ending with .200...299 in the “Category 0” and “Categories 1 to 9” in Annex I to Council Regulation (EC) No 428/2009.

11. Service shall mean all technical assistance activities relating to the repair, development, manufacturing, assembly, quality control, operation, and maintenance of a dual-use item or any other technical service.


13. Undertaking shall mean any legal person or entity without legal personality established primarily to pursue business activities, and sole traders; the state, local governments, budgetary authorities, associations, public bodies, and foundations.

14. End user shall mean the person actually using the dual-use item as the result of the transaction falling within the scope of this decree.

15. End User Declaration shall mean the declaration made by the end user or consignee undertaking to use the dual-use item solely under the conditions and in the manner specified in the declaration.
3. Rules of registration

Article 3
(1) Activities falling within the scope of this decree may be pursued only by persons registered by the Defence Technology and Export Control Authority (hereinafter referred to as the Authority) of the Hungarian Trade Licensing Office in the register specified in Articles 140/A to 140/B of Act XXIX of 2004 on Amendments and Repeals of Legal Regulations and other Legislative Changes Related to Hungary’s Accession to the European Union.
(2) Applicants shall attach the following to the application for registration:
(a) the customs identification number specified in Article 17(1) of Act CXXVI of 2003 on the implementation of Community customs law (hereinafter referred to as EORI number);
(b) a document identifying the applicant in an authentic manner: extract from company records, deed of foundation, personal identification card, or an authentic copy of any of these documents;
(c) a document certifying the authenticity of the signature of the person empowered to undertake obligations on behalf of the applicant: specimen signature with authentication by a notary public, or a specimen signature countersigned by an attorney-at-law in the course of a company registration or modification registration procedure, a copy of the personal identification card, and
(d) the tax identification number.
(3) In relation to the activities specified in points (a) to (c) of Article 1(1), the applicant shall submit, in addition to the items listed in Article 3(2), the following attached to the application for registration:
(a) in case of persons other than natural persons, the document certifying the appointment of a person participating in the management of the undertaking and responsible for export control, as well as the authorisation of this person to keep contact with the Authority, and
(b) the Internal Control Programme approved by the head of the non-natural person.
(4) In addition to the regulation of the issues listed in Article 20(1) to (2) of Council Regulation (EC) No 428/2009, the Internal Control Programme mentioned in point (b) of paragraph (3) shall:
(a) regulate the tasks and responsibilities of persons participating in the activities falling within the scope of this decree;
(b) regulate the internal compliance of the undertaking with the provisions laid down in Council Regulation (EC) No 428/2009 and in this decree;
(c) make the necessary arrangements in an action plan for the remedy of the consequences of possible violations of the law.

Article 4
(1) Applicants recorded in the register shall notify the Authority about any changes to the registered data within eight days after such change occurred.
(2) Persons not having pursued any activity falling within the scope of this decree for five calendar years shall be deleted from the register by the Authority.

4. Common procedural rules

Article 5
(1) Applications shall be submitted to the Authority by filling in the template forms published on the website of the Authority.
(2) The applicant shall be responsible for the authenticity of all data provided on the submitted application and on the documents attached thereto, as well as for providing the control list no of the dual-use item.
(3) The documents specified in Article 20(1) of Council Regulation (EC) No 428/2009 concerning the transactions falling within the scope of this decree shall be kept and, upon request, presented in the course of an authority inspection by the client for a period of five years after the last day of the year in which the transaction was completed.
(4) In the course of customs procedures relating to the transactions specified in Article 1(1), the applicant shall indicate in section 44 of the unified customs declaration the item description and control list no indicated on the authorisation or on the International import certificate, or, in case of using a Community General Export Authorisation, the identification number of the Community General Export Authorisation. For chemicals, the number identifying the chemical (hereinafter referred to as CAS number) shall be indicated by the applicant in section 31 of the unified customs declaration.

CHAPTER II
THE AUTHORISATION OF THE EXPORT, TRANSFER, TRANSIT OF DUAL-USE ITEMS AND OF BROKERING SERVICES, AND THE CONTROL OF MILITARY TECHNICAL ASSISTANCE

5. Authorisations for the foreign trade of dual-use items

Article 6
Applications for export, transfer and transit authorisations shall be submitted with the contents specified in Part A) of Annex 1, and for authorisation for brokering services shall be submitted with the contents specified in Part B) of Annex 1 to the Authority.

Article 7
In addition to Article 4(1) to (4) of Council Regulation (EC) No 428/2009, the export of dual-use items not listed in Annex I to Council Regulation (EC) No 428/2009 shall also be subject to authorisation if the exporter has reason to assume that the item concerned is or may be intended, wholly or partially, for purposes specified in Article 4(1) of Council Regulation (EC) No 428/2009.

Article 8
The provisions applicable to exporters shall also be applied to technology transfers implemented through the cross-border movement of natural persons.

6. Individual Export Authorisation

Article 9
(1) An Individual Export Authorisation applicable to one exporter, one consignee, and one end user shall be required for the export of dual-use items listed in Annex I to Council Regulation (EC) No 428/2009.
(2) The Individual Export Authorisation shall be effective for one year and may be extended once, for a maximum of one year upon an application for extension submitted thirty days prior to expiry at the latest.
(3) The End User Declaration certified by the representatives of the end user and of the consignee authorised to sign for them shall be attached to the application, which shall contain the following:
(a) the exact name, registered seat, and specific activity of the end user and of the consignee;
(b) the description, quantity, and value of the imported item;
(c) a clear description of the use of the item and its specific destination, and
(d) a specific undertaking that the imported item will not be re-exported, transferred, or diverted en route during transport.
(4) The Authority may request an International Import Certificate from the exporter, or an End User Declaration validated by the corresponding foreign organisation of the consignee and the end user, as well as the Hungarian foreign representation.

7. Global Export Authorisation

Article 10
(1) A Global Export Authorisation applicable to one exporter and one or more specific country of destination may be issued for the export of dual-use items listed in Annex I to Council Regulation (EC) No 428/2009.
(2) Global Export Authorisations may be issued for a maximum period of three years and may be extended once, for a maximum of one year upon an application for extension submitted thirty days prior to expiry at the latest.
(3) Global Export Authorisations may be issued for applicants having at least one year experience in export control and an Internal Control Programme regulating, inter alia, the use of the Global Export Authorisation.
(4) A declaration by a person authorised to sign for the company shall be attached to the application of the exporter, which shall contain the agreement of the exporter to comply with the following requirements in respect to all export transactions:
(a) the authorisation shall be used exclusively for the dual-use items and countries of destination indicated therein;
(b) the identification data of the Global Export Authorisation shall be indicated on the invoices and transport documents: number of the authorisation and its effective date;
(c) the exporter shall request the End User Declaration by the end user or by the consignee with the contents specified in Article 9(3) upon contracting or the confirmation thereof;
(5) The exporter shall send the Authority a summary of export transactions completed according to the Global Export Authorisation within thirty days after the end of the calendar year, which shall include the following:
(a) description, quantity, and value of the sold items;
(b) the control list no;
(c) the corresponding customs tariff classification;
(d) the country of destination;
(e) the particulars of the consignee and the end user;
(f) the date of the transaction, and
(g) whether the export is final or temporary.

8. National General Export Authorisation

Article 11
(1) A National General Export Authorisation may be issued for dual-use items listed in Annex I to Council Regulation (EC) No 428/2009, with the exception of those listed in Part 2 of Annex II, and destinations, which do not present any foreign or security policy threat for the Republic of Hungary or for the European Union in any way.
(2) The Authority shall issue the National General Export Authorisation ex officio and shall publish it on its website on the 8th day prior to its effective date at the latest.
(3) Upon publishing the National General Export Authorisation according to paragraph (2), the Authority shall notify about its decision on the issuance the Minister responsible for foreign policy, the Minister responsible for foreign trade and for the economic development of the Carpathian Basin Economic Area, the Minister responsible for law enforcement, the Minister
responsible for protection against disasters, and the heads of the National Tax and Customs Authority, the Information Authority, the Constitution Protection Authority, the Military Reconnaissance Authority, the Military Security Authority, and the National Security Special Service.

Article 12
(1) Depending on its subject, the National General Export Authorisation may be issued for an indefinite period or for a definite period expressed in years.
(2) The effective date of a National General Export Authorisation issued for a definite period may be extended ex officio by the Authority before expiry.
(3) National General Export Authorisations issued for a definite or indefinite period may be modified during their effective period.
(4) The declaration specified in Annex 2 shall be indicated on the transport document relating to export transactions performed under a National General Export Authorisation for the dual-use item.
(5) The exporter shall send the Authority a summary of export transactions completed according to the National General Export Authorisation within thirty days after the end of the calendar year, which shall include the following:
(a) description, quantity, and value of the items;
(b) the control list no;
(c) the corresponding customs tariff classifications;
(d) the country of destination;
(e) the particulars of the consignee and the end user;
(f) the date of the transaction, and
(g) whether the export is final or temporary.

9. Community General Export Authorisation

Article 13
(1) The organisation authorised to issue Community General Export Authorisations shall be the European Union.
(2) In relation to the dual-use items and countries of destination listed in Annex II of Council Regulation (EC) No 428/2009 – having regard to the conditions and provisions laid down therein –, export may be performed on the basis of a Community General Export Authorisation (Export Authorisations).
(3) The declaration specified in Annex 3 shall be indicated on the transport document relating to export transactions performed under a Community General Export Authorisation for the dual-use item.
(4) The exporter shall send the Authority a summary of export transactions completed according to the Community General Export Authorisation within thirty days after the end of the calendar year, which shall include the following:
(a) description, quantity, and value of the items;
(b) the control list no;
(c) the corresponding customs tariff classifications;
(d) the country of destination;
(e) the particulars of the consignee and the end user;
(f) the date of the transaction, and
(g) whether the export is final or temporary.

10. Decision on applications for export authorisations
Article 14
(1) The Authority shall issue the authorisations based on the resolution of the Minister responsible for foreign policy and—depending on the subject of the application—after having obtained the opinion of the Minister responsible for foreign trade and for the economic development of the Carpathian Basin Economic Area, the Minister responsible for law enforcement, the Minister responsible for protection against disasters, and the heads of the National Tax and Customs Authority, the Information Authority, the Constitution Protection Authority, the Military Reconnaissance Authority, the Military Security Authority, and the National Security Special Service.
(2) If the refusal by the Minister responsible for foreign policy is not based on the provisions of paragraph (3), the Authority shall initiate a conciliatory meeting of the parties listed in paragraph (1).
(3) The Minister responsible for foreign policy shall not be obliged to provide justification, if the issuance of the authorisation was refused within his or her responsibility for foreign and security policy and based on the considerations provided for under Article 12(1)(c) of Council Regulation (EC) No 428/2009.
(4) In relation to the export of an item under an Individual Export Authorisation, the Authority may set ad hoc requirements after taking into consideration all the circumstances concerning the subject of the application.

Article 15
(1) In addition to the failure to meet the requirements laid down in Article 12(2) of Council Regulation (EC) No 428/2009, the Authority shall also reject applications for authorisation and shall withdraw the effective authorisation, if:
(a) the Authority becomes aware of the fact that the exporter or its business partner violates or pursues activities in violation of the legislation or international non-proliferation obligations applicable to the dual-use item;
(b) the exporter fails to meet any condition relating to the authorisation or provides false data;
(c) the commercial activity violates the foreign and security policy interests of the Republic of Hungary or violates or threatens its national security interests, or
(d) the Applicant operates its Internal Control Programme approved by the Authority in violation of statutory requirements.
(2) Upon any changes to the circumstances laid down in Article 12(1)(c) of Council Regulation (EC) No 428/2009, the Authority shall modify the effective authorisations, if withdrawal may be avoided this way.
(3) In the remediable cases specified in points (a), (b), and (d) of paragraph (1), the Authority shall suspend the effective authorisations and shall simultaneously request the client to meet the conditions before the specified deadline.
(4) In the case specified in point (c) of paragraph (1), the Authority shall not provide any justification.
(5) The Authority shall notify the National Tax and Customs Authority about its decisions passed under paragraphs (1) to (3) and the justification therefor.
(6) In the Individual Export Authorisation, the Authority may set individual conditions for the completion of the transaction.

11. Transfer authorisation

Article 16
(1) Beyond the items listed in Annex IV to Council Regulation (EC) No 428/2009, the transfer of other items listed in Annex 1 to Council Regulation (EC) No 428/2009 to another
Member State shall be subject to authorisation, if the conditions laid down in Article 22(2) of Council Regulation (EC) No 428/2009 are met.

(2) The rules applicable to export authorisation decisions shall be applicable to the authorisation, except that the Authority shall – depending on the subject of the application – issue its decision after having obtained the opinion of the Minister responsible for foreign policy, the Minister responsible for foreign trade and for the economic development of the Carpathian Basin Economic Area, the Minister responsible for law enforcement, the Minister responsible for protection against disasters, and the heads of the National Tax and Customs Authority, the Information Authority, the Constitution Protection Authority, the Military Reconnaissance Authority, the Military Security Authority, and the National Security Special Service.

(3) In the case of transfers to the territory of the Republic of Hungary and if the Authority has issued an International Import Certificate for the transaction, point 8 of the Delivery Certificate issued by the Authority shall be filled in by the customs agency designated in separate legislation.

12. Authorisations for Brokering Services

Article 17

(2) Authorisations for Brokering Services shall also be required for brokering services pursued with dual-use items if the broker has reason to assume that the item concerned is or may be intended for purposes specified in Article 4(1) of Council Regulation (EC) No 428/2009.

(3) The provisions applicable to export authorisation decisions shall be applicable to the decision on the application for authorisation.

13. Transit authorisation

Article 18

Article 19
(1) The Authority shall decide on taking control measures concerning the transit of the dual-use item within five days after becoming aware of the measure taken by the Customs Authority.

(2) If the Authority decides to require authorisation for the transit of the dual-use item, the rules applicable to Individual Export Authorisations shall be applied to the procedure.

(3) Only individual authorisations may be granted for transit activities.

14. Technical assistance provided for military end-use

Article 20
(1) The provision of technical assistance shall be prohibited for the maintenance of the obligations under this decree and for the development, production, handling, maintenance,
detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices and of missiles capable of delivering such weapons, as specified in Articles 2 and 5 of the Council Joint Action 2000/401/CFSP (hereinafter referred to as Joint Action).

(2) The provision of technical assistance shall also be prohibited if it relates to military uses other than those specified in paragraph (1) but is intended for a country of destination which is subject to any restriction on arms exports under Council Common Position 2008/944/CFSP or the Joint Action, or to any arms embargo ordered by the Organisation for Security and Cooperation in Europe or the UN Security Council.

(3) For the purposes of paragraph (1), the provision of technical assistance for military end-use shall include the following:

(a) transfer of items listed in the register of defence technology;
(b) transfer of any production, control, or examination equipment or their related parts necessary for the development, production, or maintenance of defence technology items mentioned in point (a);
(c) transfer of semi-finished products used for the production of defence technology items mentioned in point (a) in the production facility.

(4) The provisions laid down in paragraph (1) concerning the provision of technical assistance shall not be applicable, if:
(a) the provision of technical assistance is used in any of the countries listed in Part III of Annex II to Council Regulation (EC) No 428/2009, or
(b) the provision of technical assistance – in the form of the provided information – is used in the public domain or for basic scientific research specified by international export control regimes, organisations and contracts.

CHAPTER III
IMPORT OF DUAL-USE ITEMS

15. International import certificate

Article 21

(1) Dual-use items may be imported to the territory of the Republic of Hungary from outside the customs territory of the European Union with International import certificates (hereinafter referred to as Certificate), if:
(a) in case of items mentioned in point (d) of Article 1(1), an authority of the country of origin requires the issuance of the Certificate;
(b) the item is subject to Annex 1 to the Chemical Weapons Convention, or
(c) the item is listed in “Category 0” of Annex 1 to Council Regulation (EC) No 428/2009.

(2) Issuance of the Certificate may also be requested, if – in case of transfers within the European Union – an authority of the country of origin requires the issuance of the Certificate.

(3) Applications for the issuance of the Certificate shall be submitted with the contents specified in Part A) of Annex 4.

Article 22

(1) If the item mentioned in point (d) of Article 1(1) is imported to the territory of the Republic of Hungary from a third country outside the European Union, the Authority, by issuing the Certificate, shall certify that it exercises authority control over the import and use of the item.

(2) The Certificate issued under paragraph (1) may be used in the course of the procedure conducted by the authorities of the exporting country solely on behalf of the person identified therein, and the Certificate may not be transferred to any other person.
(3) The applicant shall notify the Authority about any changes to the data indicated in the Certificate, in the related Consignee and End User Declarations, and in the Delivery Certificate within eight days. Upon any changes, the Authority shall be entitled to withdraw the Certificate or to regard the notification about the change as a new application.

(4) The Certificate shall be repealed if it is not presented to the respective foreign authority within six months after its issuance.

Article 23
The Consignee and End User Declarations with the contents specified in Part B) of Annex 4 shall be attached to the application for the Certificate, according to which the item shall be used solely under the conditions and for the purposes indicated therein.

Article 24
(1) If placement into free circulation is performed by the Hungarian customs authority, the Delivery Certificate issued by the Authority shall be validated by the customs authority, in order to certify that the item indicated therein has arrived in the territory of the Republic of Hungary.

(2) If the dual-use item was placed into free circulation by the customs authorities of other Member States of the European Union before being imported to the territory of the Republic of Hungary, the importer shall officially notify the Authority within forty-eight hours about the arrival of the item in the territory of the Republic of Hungary.

16. Decision on the application for a Certificate

Article 25
(1) The application shall be submitted to the Authority in one copy using the template form published on the website of the Authority, and filled in in line with the corresponding instructions.

(2) The Authority — depending on the subject of the application — shall issue its decision after having obtained the opinion of the Minister responsible for foreign policy, the Minister responsible for foreign trade and for the economic development of the Carpathian Basin Economic Area, the Minister responsible for law enforcement, the Minister responsible for protection against disasters, and the heads of the National Tax and Customs Authority, the Information Authority, the Constitution Protection Authority, the Military Reconnaissance Authority, the Military Security Authority, and the National Security Special Service.

(3) The Authority shall reject the issuance of the Certificate, or shall withdraw the already issued certificate, if
(a) the foreign party or the domestic end user pursues activities in violation of applicable legislation;
(b) the issuance of the Certificate would be contrary to the international undertakings of the Republic of Hungary, or would violate or jeopardise the performance of such undertakings;
(c) the applicant has connections with persons mentioned in point (a) concerning the marketing of the item;
(d) the marketing of the item would violate the national security interests of the Republic of Hungary;
(e) the applicant provides false data, or
(f) the applicant fails to comply with the provisions laid down in the Certificate concerning the use of the item.

CHAPTER IV
SPECIAL RULES FOR CHEMICALS

Article 26
(1) In case of the transfer from or to the territory of the Republic of Hungary, and in case of export or import under a Community General Export Authorisation of chemicals falling within the scope of Annex 1 to the Chemical Weapons Convention, all and any persons participating in the transaction shall be obliged to report the exit from or entry to the territory of the Republic of Hungary of the item.
(2) The report shall be sent to the Authority on an International Transfer Declaration with the contents specified in Annex 5 within ten days after exit or entry.

CHAPTER V
BORDER CONTROL, FINES

Article 27
(1) The Authority shall be entitled to monitor in advance, continuously, and subsequently the performance of the transactions and of the obligations laid down in this decree concerning the foreign trade of dual-use items.
(2) Upon request by the monitoring agency, origin shall be certified with the documents specified by Community customs rules and issued by the competent organisation of the seller country.

Article 28
(1) The Authority shall impose a fine between one hundred thousand and five million Hungarian forints on those, who
(a) provide false data during the authorisation procedure, which are capable of misleading the authority;
(b) fails to perform its data provision, notification, cooperation, declaration, and registration obligations;
(c) violates or jeopardises the performance of the international non-proliferation obligations or the national security interests of the Republic of Hungary, or
(d) does not operate the Internal Control Programme approved by the Authority in line with statutory requirements.
(2) The Authority shall impose a fine between five hundred thousand and five million Hungarian forints on those, who
(a) pursue the foreign trade in dual-use items – including the transfer, transit, brokering services thereof, and provision or making use of technical assistance – specified in this decree in violation of the authorisation, or
(b) pursue the foreign trade in chemical agents – including the transfer thereof – falling within the scope of Annex 1 to the Chemical Weapons Convention in violation of the authorisation.
(3) The fine shall be between five million Hungarian forints and ten million Hungarian forints if the foreign trade is pursued contrary to the provisions of the authorisation, thereby violating the foreign and security policy interests of the Republic of Hungary.
(4) The fine specified in paragraphs (1) to (3) shall be paid via transfer to the bank account indicated in the decision imposing the fine, and the number of the decision shall be indicated in the notice section of the transfer.
(5) The fine specified in paragraphs (1) to (3) may be paid via cash transfer order or bank transfer.

Article 29
When establishing, imposing, and reducing the amount of the fine, the Authority shall proceed in line with the provisions of the Government decree on rules concerning the amount and application of fines imposed by the Hungarian Trade Licensing Office.
CHAPTER VI
FINAL PROVISIONS

Article 30
This decree shall enter into force on the 15th day after its promulgation.

Article 31
For pending procedures at the time of entry into force of this decree, the provisions of
Government decree No 50/2004, (III. 23.) on the foreign trade authorisation of dual-use items
and technologies shall be applied.

Article 32
(1) This decree lays down the provisions necessary for the implementation of Council
Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control
of exports, transfer, brokering and transit of dual-use items.
(2) This decree serves compliance with
(a) Council Joint Action of 22 June 2000 concerning the control of technical assistance related
to certain military end-uses (2000/401/CFSP)

(b) Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules
governing control of exports of military technology and equipment.