

# **ACT REGULATING THE CONTROL OF EXPORTS OF DUAL-USE ITEMS (ZNIBDR)**

## **I. GENERAL PROVISIONS**

### **Article 1 (Content of the Act)**

This Act regulates the control measures for exports of dual-use items in the part not governed by the European Union regulations in this field, or where these regulations authorise member states to further regulate the field in their national regulations.

### **Article 2 (Field of application)**

1. This Act shall apply in addition to the provisions of the Council Regulation (EC) No 1334/2000 of 22 June 2000 setting up a Community regime for the control of exports of dual-use items and technology (OJ L 159, 30 June 2002, p. 1), and the Council Joint Action of 22 June 2000 concerning the control of technical assistance related to certain military end-uses (2000/0401/CFSP) (OJ L 159, 30 June 2000, p. 216) with their amendments.
2. This Act shall not apply to exports of those dual-use items the control of which is regulated by other acts.

### **Article 3 (Dual-use items)**

For the purposes of the application of this Act the term "dual-use items" shall mean the items, software and technology that may be used for civilian and military purposes, and shall also include all items and services that may be intended for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons.

## **II. EXPORT AUTHORISATION**

### **Article 4 (Export authorisation for items included in the list of dual-use items)**

1. The exportation and transmission within the European Community (hereinafter: the Community) of dual-use items included in the list of dual-use items published on the basis of this Act shall be subject to authorisation to be granted by the Community or the ministry responsible for the economy (hereinafter: the Ministry).

2. The list of dual-use items is issued by the Government of the Republic of Slovenia (hereinafter: the Government).

#### Article 5

(Export authorisation for items not included in the list of dual-use items)

1. The Ministry's authorisation is also required for the exportation of dual-use items not included in the list of dual-use items, if the Ministry has informed the exporter that the items in question are or may be intended, in their entirety or in part, for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons.
2. If the exporter is aware of the fact that the dual-use items which he/she plans to export and which are not included in the list of dual-use items are intended, in their entirety or in part, for the use described in the previous paragraph, he/she must notify the Ministry thereof, and the Ministry shall decide whether or not such exportation should be made subject to authorisation.

#### Article 6

(Types of authorisation)

1. As a rule, the export authorisation for dual-use items shall be granted for each individual export (an individual authorisation). When specific items are exported to one or more specific countries, a global authorisation may be granted, while for exports of several types or categories of dual-use items to more countries a general authorisation may be granted.
2. The Government may specify in which instances a global or general authorisation shall be granted, as well as determine more detailed conditions to be met if these authorisations are to be granted.

#### Article 7

(Refusal to grant an authorisation)

The Ministry shall refuse to grant an authorisation, if it assesses that the exportation of dual-use items might have negative consequences, in particular those that:

- endanger the fulfilment of international treaties or obligations binding on the Republic of Slovenia
- endanger or run contrary to the foreign policy, security or defence interests of the Republic of Slovenia
- make it impossible to meet the conditions under which these items were imported in the Republic of Slovenia (restriction or prohibition of re-exportation)
- enable the use of the items that violates the provisions of this Act, or their diversion.

#### Article 8

(Modification and annulment of the authorisation)

1. An export authorisation for dual-use items shall be modified or annulled *ex officio*, if it has been established that any information in the application was not accurate, or if any circumstance – after the authorisation had already been granted – has changed in such a manner that the international commitments or obligations binding on the Republic of Slovenia make it necessary to take such a measure.
2. An export authorisation for dual-use items can be modified or annulled also at the request of the exporter, if the circumstances that formed the basis for the granting of the authorisation have changed and are relevant to the exporter, importer or end user of dual-use items.

### III. ROLE, COMPETENCES AND OBLIGATIONS OF STATE BODIES IN CARRYING OUT THE CONTROL

#### Article 9

(Commission for the control of exports of dual-use items)

1. The Government shall appoint a Commission for the control of exports of dual-use items (hereinafter: the Commission) to coordinate and monitor the implementation of the control of exports of dual-use items, and shall precisely define its tasks.
2. The Commission shall be composed of representatives of the ministries and other state bodies whose field of work includes the control of exports of dual-use items.
3. The Commission members must protect the classified information disclosed to them while performing the function of a member of this working group.

#### Article 10

(Right to review and access to information)

1. The ministries and other state bodies mentioned in Article 9, Paragraph 2, shall have, notwithstanding the regulations concerning the confidentiality of information, the right and obligation to communicate to each other all information on exporters and exported dual-use items that is necessary to conduct the control as provided in this Act.
2. If requested, exporters, banks, other financial organisations or anybody else having information relevant for the control of exports of dual-use items, are under an obligation to submit to the Ministry, customs authorities and law enforcement authorities their books of account, correspondence and all other information necessary to conduct the control.
3. The provisions from the previous paragraphs related to exporters also apply to the supplier of dual-use items in the Community.

#### Article 11

(Control of exports and transmission of the items within the Community)

On the territory of the Republic of Slovenia, the control of exports of dual-use items and of the transmission of dual-use items within the Community shall be carried out by the customs authorities of the Republic of Slovenia.

Article 12  
(International import certificate)

1. If, in order to export dual-use items, the country of exportation should require an import certification to be provided by the state bodies of the Republic of Slovenia, such certificate (an international import certificate) shall be issued by the Ministry within its competence pursuant to this Act.
2. The provision from the previous paragraph shall also apply as appropriate when the items are transmitted within the Community.

IV. PENAL PROVISIONS

Article 13  
(Violations)

1. A fine ranging from SIT 300,000 to SIT 30,000,000 shall be imposed on legal entities or individual private entrepreneurs committing a violation of:
  1. exporting or transmitting within the community, without permission, the goods included in the list of dual-use items (Article 4, Paragraph 1);
  2. exporting, without permission, the dual-use items for which they were informed by the Ministry of their purpose or possibility of use (Article 5, Paragraph 1);
  3. not informing the Ministry that the dual-use items they plan to export are intended, in their entirety or in part, for use defined in Article 5, Paragraph 1 of this Act, if they were aware of this fact (Article 5, Paragraph 2);
  4. not submitting their books of account, correspondence and all other information, if so requested (Article 10, Paragraph 2).
2. A fine ranging from SIT 50,000 to SIT 1,000,000 will also be imposed on the responsible person of the legal entity or the responsible person of the individual private entrepreneur for the violations defined in the previous paragraph.
3. A fine ranging from SIT 30,000 to SIT 300,000 will be imposed on a natural entity committing a violation as defined in Paragraph 1 of this Article.

Article 14  
(Violation procedure)

Violations specified in this Act may not be decided by emergency procedure.

V. TRANSITIONAL AND FINAL PROVISIONS

Article 15  
(Implementing regulations)

The Government shall issue the regulations mentioned in Article 4, Paragraph 2 and Article 9, Paragraph 1 of this Act, and specify which documents the exporter must attach to his application to obtain export authorisation for dual-use items pursuant to this Act by 30 April 2004 at the latest.

Article 16  
(Completion of procedures)

When deciding on applications for export authorisation for dual-use items that were filed prior to the entry into force of this Act, the regulations that were applicable at the time when applications were filed shall apply.

Article 17  
(Violations prior to 1 January 2005)

Prior to the General Offences Act (*Official Gazette of the RS*, 7/03) entering into force, the fines specified in this Act and imposed in the violation procedure shall amount to:

1. for a legal entity, in the range from SIT 3,000,000 to SIT 20,000,000;
2. for an individual private entrepreneur in the range from SIT 1,500,000 to 10,000,000;
3. for the responsible person of the legal entity, in the range from SIT 200,000 to SIT 1,000,000
4. for the responsible person of the individual private entrepreneur, in the range from SIT 100,000 to SIT 450,000.

Article 18  
(Expiration of regulations)

1. On the day this Act enters into force, the following Acts and regulations shall expire:
  1. Act Regulating the Exports of Dual-Use Goods (*Official Gazette of the RS*, 31/2000) and the following regulations issued on its basis:
    - a) Decision establishing the list of dual-use goods (*Official Gazette of the RS*, 45/2000),
    - b) Order on the form and contents of the application form regarding an authorisation for the exportation of dual-usage goods (*Official Gazette of the RS*, 47/2000);
  2. Foreign Trade Act (*Official Gazette of the RS*, 13/93, 66/93, 7/94, 1/95-Customs Act, 28/95- Act Amending the Customs Act, 58/95, 23/99- Foreign Exchange Act, and 36/2000- Prevention of Illegal Work and Employment Act) and the following regulations issued on its basis:
    - a) Decree establishing the export and import regime for specific goods (*Official Gazette of the RS*, 111/01, 20/02, 64/02, 116/02, 37/03, 54/03 and 129/03);
    - b) Decree on the method, time limits and conditions for the distribution of quotas for the importation of goods (*Official Gazette of the RS*, 15/93 and 69/95);
    - c) Decree on the issuing of certificates and authentication of documents accompanying exported and imported goods (*Official Gazette of the RS*, 27/01).
3. The regulations from the previous paragraph shall apply until 30 April 2004.

Article 19

(Entry into force)

This Act shall enter into force on the day after its publication in the *Official Gazette of the Republic of Slovenia* and shall apply from 1 May 2004.