

STRATEGIC GOODS COMMISSION ACTIVITY REPORT 2010

The Strategic Goods Commission is a strategic goods licensing and supervising authority at the Ministry of Foreign Affairs. It includes the representatives of the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of Economic Affairs and Communications, the Security Police Board, the Police and Border Guard Board, as well as the Tax and Customs Board. Pursuant to § 48 of the Strategic Goods Act, the Strategic Goods Commission submits an activity report to the Government at least once a year.

I. Overview of the developments in international export control and the activities of the Strategic Goods Commission in 2010

The purpose of the international export control is to monitor the movement and supply of military and dual-use goods in order to contribute to national and international security and stability. The importance of export control increases in conjunction with the need to avoid terrorism and prevent the proliferation of weapons of mass destruction in the world. At the national level the export control functions through strategic goods control system.

Estonia is a member of three export control regimes: the Wassenaar Arrangement (for the control of military goods and dual-use goods and technologies); the Nuclear Supplier's Group (for the control of nuclear materials); and the Australia Group (for the control of proliferation of chemical and biological weapons). Estonia has fulfilled membership criteria for the Missile Technology Control Regime (control of the proliferation of missile technology and missiles), but the participating countries have not achieved a consensus regarding the acceptance of new members (Estonia and seven other EU countries are awaiting member status) and therefore, Estonia's accession has been postponed.

Export control of military goods and dual-use goods as well as technologies is based on the agreed principles in international regimes and lists of goods to be controlled. In all three regimes that Estonia has joined, 2010 was more work-intensive than usual. A thorough updating of the lists commenced, as well as a review of the guidelines. The updating of the lists will continue in 2011.

The changes made in the goods lists resulted from agreements achieved in 2010 by the international export control regimes and those changes are transferred to the European Union export control lists. The list of military goods is adopted by the European Union with Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment. The European Union list of dual-use goods (European Union regulation 428/2009) is directly applicable to Estonia.

In addition to the obligations pursuant to the regimes, the Strategic Goods Commission also controls trade of certain goods that can be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. The list of goods is based on

European Union regulation 1236/2005, which is directly applicable to Estonia. In 2010, the European Parliament proposed to amend regulation 1236/2005 adding transit and brokering control measures to the regulation and updating the goods list. A working group was convened to amend the regulation; specific proposals are under consideration and the discussions will continue in 2011.

Estonia updates its list of strategic goods with respect to all amendments that have been made to the European Union lists in 2010.

In 2010, the transposition of European Union directive 43/2009 regarding the simplification of the terms and conditions for the intra-Community transfer of defence-related products, continued. The purpose of the directive is to simplify the rules and procedures that apply to the transfers within European Union for products listed in the Common Military List of the European Union by introducing general and global licenses, in order to ensure better, more competitive and proper functioning of the internal market. Measures to transpose this directive must be adopted by the European Union member states by 30 June 2011 and new system will enter into force starting July 2012. Estonia participated in the working groups that developed the common principles for the implementation of the directive and ensured that these principles would be acceptable to Estonia.

Member states of the EU regularly discuss the application of the Common Position on arms exports, update the control lists provided for by the European Union regulation 428/2009, and exchange views on arms and dual-use goods exports in European Union export control related working groups – the Working Group on Conventional Arms Export (COARM) and the dual-use goods working group (WPDUG). The coordination group that has been created based on article 23 of the European Union regulation 428/2009 searched for implementation improvement solutions for existing control requirements. Discussions continued regarding the development of new general export authorisations for dual-use goods and a common denials network (denials e-system) was completed. In addition, the list of restrictive measures against North Korea and Iran was amended and concretised; questions related to the national adoption of the European Union directive 43/2009 regarding the simplified procedure for the intra-Community transfer of defence-related products was dealt with, along with other relevant issues.

In 2010, work continued on the updating of the Strategic Goods Act in Estonia. Compared to the existing law that entered into force in 2004, the new draft prescribes a simplified procedure for the intra-Community transfer of defence-related products pursuant to European Union directive 43/2009. The new draft also takes into account the additional requirements for transit and brokering that were added by European Union regulation 428/2009 regarding dual-use goods, which current Strategic Goods Act does not prescribe. The new draft eliminates gaps or ambiguities that have emerged in the implementation of the existing law.

The amending of the Strategic Goods Act also involves the creation of five new secondary acts and modification of nine existing secondary acts. In 2010, members of the

commission discussed with the representatives of the Ministry of the Interior the ways of improving the consistency of the Strategic Goods Act and Weapons Act. The commission also made proposals for the amendment of the Penal Code, in order to bring the penalties imposed for offences related to strategic goods into conformity with the dangers posed by these offences and international practices to ensure effective, proportionate and dissuasive measures. Discussions on the draft continue and amended regulation is to be adopted in 2011.

Preparatory meetings for the Arms Trade Treaty started in 2010 within the framework of the United Nations (UN) based on UN resolution 64/48. The first meeting of the preparatory committee was held in July 2010 in New York, where the negotiations started successfully. Currently, there are no conventions that regulate trade of conventional weapons at a global level and the UN Security Council embargoes are the only legally binding global restrictions on weapons supply. The Arms Trade Treaty would be the first international agreement that would regulate import, export, and transit of conventional weapons, which would set the highest possible standards for transfers of conventional arms. The preparatory work on the treaty will continue in 2011 – preparatory meetings will take place in March and July in New York, and the treaty negotiations are scheduled to be held over a four week period in 2012.

In 2010, representatives of the Strategic Goods Commission participated in the preparation of the European Parliament and Council of Europe draft regulation, which would implement article 10 of the UN Firearms Protocol. It will set up measures implementing Article 10 of the United Nations' Firearms Protocol and establish export authorisation, and import and transit measures for firearms, their parts and components and ammunition. In 2002, Estonia ratified the UN Convention against Transnational Organised Crime and its protocols related to the legal production of firearms, their parts, and ammunition, as well as the prevention of their illegal trading. The proposed European Union draft regulation will implement the export-related article of the protocol on measures in respect of movements of firearms for civilian use from the territory of the European Union to or through third countries, taking into consideration the European Union measures in the fight against international crime and illicit trafficking in firearms.

II. Increasing awareness concerning strategic goods in 2010

The Strategic Goods Commission pays great attention to increasing awareness about strategic goods among the Commission's partners – enterprises, scientific and academic circles – as well as its member institutions.

In 2010, the representatives of the Strategic Goods Commission visited 11 companies throughout Estonia that are engaged in transfers of strategic goods. All were first-time visits and took place at the initiative of the Tax and Customs Board. The purpose of these visits was to introduce the legislation that regulates export control and the organisation of customs work to the companies in order to raise their awareness and compliance with the strategic goods regulation. In the period between 2007 and 2010, these visits have been made to a total of 30 companies throughout Estonia and they will continue in 2011.

In September 2010, a three-day training session for customs officials on the prevention of the proliferation of weapons of mass destruction was held at the Estonian Academy of Security Sciences in cooperation with the Tax and Customs Board and the United States Federal Bureau of Investigation. The training dealt with weapons and controlled goods in the field of chemical, biological and nuclear weapons and missile technology. It was a training session for instructors – in 2011, based on the United States training, the Tax and Customs Board will create for its employees a curriculum that deals thoroughly with all aspects related to weapons of mass destruction and their proliferation risks.

In 2010, the working group for the discovery of radioactive contraband, which was established in 2009 and includes experts from the Tax and Customs Board, the Environmental Board's Radiation Safety Department, the Security Police Board, the Estonian Rescue Board, and the Police and Border Guard Board, completed a joint action guideline for discovering radioactive contraband on the European Union's external border. In the spring of 2011, a joint exercise shall take place at the initiative of the working group, where cooperation and information exchange in the case of the discovery of radioactive goods on the border will be practiced.

In 2010, a foundation was laid for future intensive training cooperation in the field of detection of illicit trafficking of radioactive material at borders. Using the simulation class at the Estonian Academy of Security Sciences, the experts of the Tax and Customs Board developed a general training programme for the employees of the Police and Border Guard Board and the Tax and Customs Board. The first courses will begin in the spring of 2011.

In 2010, the Tax and Customs Board continued to analyse Estonia's trade with countries which are subject to embargo. Possible biological weapons related risks for Estonia were also examined – goods, manufacturers and suppliers were comprehensively studied. The analysis was based on the Australia Group's common control lists of chemicals and biological agents needed for the production of chemical and biological weapons and the European Union lists of dual-use goods. Explosive materials and pyrotechnics were also analysed in detail concerning possible listing as strategic goods. In 2010, a detailed analysis of routes and supply of ammonium nitrates was completed as well.

As of 2010, the Strategic Goods Commission has its news list, where information about strategic goods related legislation amendments and other practical issues is distributed to companies and other interested parties.

III. Measures planned for further enhancement of the strategic goods control in 2011

In 2011, the Strategic Goods Commission will continue to further enhance the strategic goods control system in Estonia and to improve the work of the Strategic Goods

Commission. Many of these activities, e.g. amendments to the law, the organisation of training and updating of lists, comprise the commission's main activities year after year.

The main activities scheduled for 2011 are:

- the updating of the Strategic Goods Act in order to bring it into compliance with the latest changes that have taken place since 2004 in the field of international export control, (EU directive 43/2009, regulation 428/2009 and regulation 1236/2005), as well as to eliminate the gaps and ambiguities in the current law;
- the continuous updating of strategic goods lists, in order to comply with the changes that have been made to control regime lists; when necessary, making amendment proposals to the international control regime lists;
- amendment proposal for the Estonian Penal Code, in order to bring the imposed penalties for offences related to strategic goods into conformity with international practices and the dangers posed by these offences;
- organising an outreach seminar to industry on strategic goods control related issues in order to introduce amendments to the law, increase awareness and responsibility, as well as promote cooperation;
- providing assistance to prosecutors and other justice authorities for organising seminars on the control of strategic goods, in order to increase the awareness of legal experts about various aspects of strategic goods control and international security;
- updating the website with practical information on strategic goods, publication of relevant articles;
- addressing other relevant issues in arms and export control, including establishment of the Internal Compliance Program (ICP) and introduction of new general licenses.

Development and introduction of the certification system for companies and the introduction of a common European Union register for certified companies are important priorities for the year 2011. Other significant issues include participation in the Weapons Act amendment working group, establishment of demilitarisation requirements, and cooperation with other agencies for more effective export control.

In 2011, the Security Police Board, as one of the members of the Commission exercising control over services related to military goods, continues to improve international cooperation with security and intelligence services of other countries for the prevention of illegal trafficking of conventional weapons and proliferation of weapons of mass destruction, as well as the technologies, materials, and equipment necessary for their production. They will also participate in international exercises in this sphere in order to improve cross-border cooperation.

In addition, information exchange regarding the harmonisation of the technical requirements for firearms, their essential parts, registered users, and technical parameters for deactivated weapons needs to be improved among the European Union member states.

On a global scale, the most important objective is to maintain control over the weapons of mass destruction and illegal trafficking of the materials and technologies used for their production, in order to avoid these materials ending up in the possession of aggressive end users or countries that are under embargo. The identification of such infringements is very complicated and requires a great degree of experience from the supervisory officials in identification of goods as well as control of documents, brokers and end users. In addition to sustained training, experts also meet in the framework of the export control regimes.

In 2011, the Tax and Customs Board will continue the tradition of paying visits to companies that deal with strategic goods. This allows a dialogue to be maintained with the companies, to draw their attention to legislation changes, to deal with possible problems, and to find solutions to the practical issues that arise in the course of everyday work. It also gives an opportunity for companies to make proposals for making regulations more effective. In 2011, there are plans to organise an exercise related to the control of dual-use goods on the external borders. This exercise will focus on the export of electronic goods to countries under embargo.

IV. Statistics of the Strategic Goods Commission activities in 2010

1. The number of issued licences, certificates, and end-use control documents concerning, as well as consultations provided

The Strategic Goods Commission issued authorisations and end-use control documents for strategic goods as follows:

- import licences of military goods – 86
- export licences of military goods – 24
- export licences of dual-use goods – 38
- transit permits – 9
- end user certificates – 24
- international import certificates – 4
- military goods brokering export documents – 3
- general export authorisation user certificates – 2

In 2010, a total of 190 documents were issued, including 160 licences, 28 end-use control documents and 2 general export authorisation user certificates. The number of issued documents has increased year after year. In comparison, 133 authorisations and end-use control documents were issued in 2009. During 2010, goods worth of 10,7 million Euros were imported, exported or transited through Estonia on the basis of strategic goods authorisations.

The officials of the Tax and Customs Board made 606 requests to regional contact persons dealing with strategic goods in order to determine whether particular goods should be specified as strategic goods, and whether they require a licence. This was 10% more than in 2009, when the respective number was 551. The Secretariat of the Strategic

Goods Commission provided consultations to people on about 300 occasions regarding the licensing of strategic goods and their classification in the list of goods. The number of questions related to the transport of goods to countries under embargo has increased. The awareness of dual-use goods export control has also increased which is indicated by the increased number of issued documents and inquires.

The Strategic Goods Commission uses all ordinary means of communication for in-house communicating. A program, known as Tracker, is used for processing licenses. In addition to everyday communication via electronic information channels, the commission had 29 virtual, regular and extraordinary meetings in 2010.

2. Entry in the state register or refusal to make an entry in the state register of brokers of military goods

In 2010, the Strategic Goods Commission received one application for entry into the State Register of Brokers of Military Goods, which was approved (Est Arms OÜ). As of 31 December 2010, five brokers are entered in the State Register of Brokers of Military Goods: Musket OÜ, Dolfin Aero OÜ, Fortestar OÜ, Atostat OÜ, and Est Arms OÜ.

3. Refusals to issue a license, certificate, or end-use control document

In 2010, there were no cases when the Strategic Goods Commission refused to issue a licence, certificate or end-use control document, or refused to make an entry in the register.

4. Offences related to strategic goods and international sanctions

In 2010, the Tax and Customs Board revealed 27 offences related to transfers of strategic goods. These violations included: a transfer of goods without a licence, a failure to submit a notification on the transfer of goods within the European Union and the presentation of an invalid licence to the Tax and Customs Board in customs clearing.

Based on §392 of the Penal Code, the Security Police Board initiated criminal proceedings in 26 cases related to illegal import or export of strategic goods. The objects of the violations included: firearms, their essential parts, other components of weapons and ammunition; electric shock weapons; helicopter spare parts listed as military goods; military ground vehicles; telescopic stacks; mortar simulators; machine gun simulators, forward observers and battle simulators.

The proceedings were terminated in two criminal cases since the investigation was unable establish intent in the activities of the persons that had committed the violation. In four cases, considering the circumstances and extent of the offence, but also due to the lack of public interest, it was possible to ensure the future law-abiding behaviour of persons involved and they were not punished pursuant to criminal procedure. The proceeding against them was discontinued and they had to pay a total of 397,000 EEK (25,367.41 EUR) in penalties into public revenues. The smallest payment was 500 EEK (32 EUR)

and the largest was 200,000 EEK (12,779.55 EUR). In comparison: the state fee for obtaining licence from the Strategic Goods Commission in time would have been 200 EEK (12.78 EUR).

Investigations about 17 criminal matters related to strategic goods will continue in 2011.

Among these identified violations the import and export of deactivated firearms into and from Estonia has increased to certain extent. So has the import and export of handgun parts that are not essential parts of weapons under the Weapons Act. The Strategic Goods Commission continues to specify legislation with regard to these issues.

Transaction	Category of goods	Number on the goods list	Qty. of goods	Origin of the goods	Destination country for the goods	Value of the goods (EUR)
EXPORT						
	MILITARY GOODS					622,883
		ML1	3 units	FI, RU	BY, CH	959
		ML4	1100 units and 4 sets	EE	LV, SK, FI, LT	92,430
		ML6	180000 units	GB	FI	474
		ML10	7 units	UA, RU, EE, CZ	FR, LT, CZ	173,800
		ML14	107 units and 5 sets	EE	PL, FR, US, TR, GE	349,420
		EST 7	1 unit	US	FI	5,800
	DUAL-USE GOODS					6,831,535
		1C350	490 MT	EE	RU, BY, UA, MD	304,053
		1A007	209 units	EE	SE, GE, LA	66,980
		2B350	2 units	DE	UA	21,692
		3A226	1 units	EE	CH	171,150
		5A002	69,771 units	EE, SE	AE, GH, HK, TR, NG, CN, MY, EG	6,135,990
		6A002	6 units	EE	NO, IN, SA, VC	16,070
		6A003	15 units	EE, US	CN, HK	108,000
		9A115	1 units	EE	PT	7,600
	GOODS FOR SELF-PROTECTION	III Annex 2.1.	2 units	US	US	159
IMPORT						
	MILITARY GOODS					2,919,891
		ML1	137 units	US, KR, IL, CH	EE	4,568
		ML2	12 units	US	EE	620,000
		ML4	540 kg ja 6 units	FI, SE, GB	EE	12,930
		ML6	65 units	US	EE	130,281
		ML10	209 units and 5 sets	CZ, UA, US, EE, GB, IT, RU	EE	1,679,608
		ML11	223 units	NO, GB, US, EE	EE	214,850
		ML13	186 units and 29 sets	FI, GB, PL	EE	130,705
		ML14	12 units	GB, CH	EE	2,620
		ML15	2 units	IL	EE	14,100
		ML16	10 units	US	EE	530
		EST7	127 units and 100 litres	US, CH, DE, FI, FR	EE	52,745

	With special authorisation of the commission	1100 units and 2 sets	DE, US	EE	56,795
TRANSIT					339,083
	ML3	6,480 units	SE	LV	725
	ML6	3 units	SE	RU	237,200
	ML10	5 units	RU	PL	91,000
	ML13	14 units	GB	LV, LT	9,138
	With special authorisation of the commission	14 units	US	LV	1,020