

*The translation of BiH legislation has no legal force and should be used solely for informational purposes. Only legislation published in the Official Gazettes in BiH is legally binding.*

Pursuant to Article IV, 4.a) of the Constitution of Bosnia and Herzegovina, at the 66th session of the House of Representatives, held on 16 December 2009, and at the 40th session of the House of Peoples, held on 30 December 2009 the Parliamentary Assembly of Bosnia and Herzegovina adopted the following

**LAW ON CONTROL OF FOREIGN TRADE OF GOODS AND SERVICES OF STRATEGIC IMPORTANCE FOR THE SECURITY OF BOSNIA AND HERZEGOVINA**

***Official Gazette of BiH No. 103/09***

**CHAPTER I - BASIC PROVISIONS**

**Article 1**

**(Subject of the Law)**

This Law shall regulate conditions for export, import and transit of weapons, military equipment, dual-use and special-use products, and services related to technologies, weapons, military equipment, and dual-use and special-use products.

**Article 2**

**(Exemptions from application of this Law)**

(1) The provisions of this Law shall not be applied in cases when, in accordance with foreign policy interests and international obligations of Bosnia and Herzegovina (hereinafter: BiH), import, export or transit are performed in relation to:

- a) United Nations Security Council Decision;
- b) Decision taken within the Organization for Security and Co-operation in Europe (OSCE);  
or
- c) Any other peace support operation conducted in accordance with the principles of the UN Charter in the framework of an international organization.

(2) The Ministry of Foreign Affairs of BiH gives it approval on the fulfilment of the conditions referred to in Paragraph (1) of this Article.

**Article 3**

**(Meaning of terms)**

The terms used in this Law shall have the following meanings:

- a) Export is a customs activity governed by the customs procedures, according to which goods, technologies and services of strategic importance are permanently or temporarily getting out of the customs territory of BiH, and transfer of software or technology, using electronic media, fax or telephone to destinations outside of the territory of BiH, including verbal transfer of technology, using telephone, only when the technology in question is contained in a document whose relevant part is read or described over the telephone in such a way as to achieve an entirely identical result;
- b) Exporter is a legal entity or natural person with the seat in the territory of BiH, who is registered for the performance of foreign trade and entered into the Register of the Ministry of Foreign Trade and Economic Relations;
- c) Import is a customs activity governed by the customs procedures, according to which goods, technologies and services of strategic importance are, permanently or temporarily, getting into the customs territory of BiH, and transfer of software or technology, using electronic media, fax or telephone to destinations outside of the territory of BiH, including verbal transfer of technology, using telephone, only when the technology in question is contained in a document whose relevant part is read or described over the telephone in such a way as to achieve an entirely identical result;
- d) Importer is a legal entity or natural person with the seat in the territory of BiH, who is registered for performance of foreign trade and entered into the Register of the Ministry of Foreign Trade and Economic Relations;
- e) Weapons and military equipment means all the items contained in the "Common List of Military Equipment Covered by the European Union Code of Conduct on Arms Exports (hereinafter: Common List of Military Equipment);
- f) Services mean the acquisition of gain, the transfer of rights, and other business activities related to goods of strategic importance for the security of BiH, including brokering services and technical assistance;
- g) Brokering services mean negotiating or contracting business deals for the purchase, sale or procurement of goods of strategic importance for the security of BiH from a third country to another third country; sale and purchase of goods of strategic importance for the security of BiH for their transfer from a third country to another third country. Ancillary services are not considered as brokering services. The ancillary services are transport, financial services, insurance or re-insurance, and advertising or marketing promotion;
- h) Technical assistance means any assistance related to repairs, development, production, assembling, testing or maintenance of goods of strategic importance for the security of BiH that may have the form of instruction, enabling, transfer of business expertise, and professional or advisory services. Technical assistance includes verbal forms of assistance, written or audio instructions, training, transfers of business expertise or skills, or consulting services;
- i) Broker is a legal entity or natural person with the seat in the territory of BiH, engaged in brokering services and entered into the Register of the Ministry of Foreign Trade and Economic Relation;
- j) Dual-use goods – means all the items enlisted in the "List of Dual-use Goods and Technologies" (hereinafter: Dual-use List), including software and technology that may be used both for civilian and military purposes, and goods that may be used for the non-explosive purpose, but that can also help, in any way conceivable, in the production and proliferation of

chemical, biological or nuclear weapons, or could be used for military end use, or is intended for the end user or the country that is subject to sanctions implemented by the UN Security Council, the EU, or the OSCE;

j) Special-use goods are all the non-military means enlisted in the Special-Purpose Goods List that are used for commercial purposes, which may threaten the security of BiH;

l) Goods of strategic importance mean weapons, military equipment, and dual-use and special-use goods;

m) Transit means customs activity governed by customs procedure according to which the goods enlisted in the control lists move across the customs territory of BiH;

n) Foreign trade means import and export of goods and services of strategic importance.

#### **Article 4**

##### **(Code of Conduct and Control Lists)**

(1) The Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina (hereinafter: the Ministry) shall publish and update in the "Official Gazette of BiH" the official translation of the Common Military Equipment List, Dual-use List and the EU Code of Conduct on Arms Exports (hereinafter: EU Code of Conduct).

(2) The Ministry shall adopt, in consultations with the competent state, entity and cantonal ministries and the bodies of Brčko District, the Special-use List of BiH and publish it in the "BiH Official Gazette of BiH".

#### **Article 5**

##### **(Documents issued by the Ministry)**

(1) For the foreign trade of goods contained in the lists referred to in Article 4 (hereinafter: the Control Lists), the following documents need to be obtained:

a) Licence, or

b) International Import Certificate.

(2) Paragraph (1) of this Article shall not be applied to technical assistance, except when technical assistance is related to:

(a) weapons and military equipment, in the case of a country that is subject to prohibitions and sanctions of the United Nations Security Council, the OSCE or the EU, or

(b) for development, production, handling, operations, maintenance, storage, detection, identification or proliferation of chemical, biological or nuclear weapons, and for development, production, maintenance and storage of projectiles capable of carrying chemical, biological or nuclear weapons.

(3) Documents referred to in Paragraph (1) of this Article shall be issued by the Ministry.

## **Article 6**

### **(Document issued by the Ministry of Security)**

- (1) Document for transit of goods referred to in the Control Lists shall be issued by the Ministry of Security of BiH.
- (2) Procedures for issuance of transit document shall be adopted by the Ministry of Security.

## **Article 7**

### **(End-user documents)**

- (1) End user shall provide his Statement that may be, at his request, certified by the competent state institution.
- (2) International Import Certificate shall be issued by the competent state institution at the request of the end-user and/or exporter.
- (3) End-user Certificate shall be issued by authorized state institution at the request of end user and/or importer.
- (4) End-user Statement, International Import Certificate and End-user Certificate should include: exporter's title, importer's title, end-user's title, goods' designation, quantity, value, document validity period, and Statement that re-export of the goods in question shall not be performed without special approval of authorized institution.

## **Article 8**

### **(Approval)**

Prior to the issuance of the documents referred to in Article 5 of this Law, and depending on the type of foreign trade and classification of goods or services, the Ministry shall require prior approval from:

- a) The Ministry of Foreign Affairs of Bosnia and Herzegovina (hereinafter: the Ministry of Foreign Affairs);
- b) The Ministry of Security of Bosnia and Herzegovina (hereinafter: the Ministry of Security);
- c) The Ministry of Defence of Bosnia and Herzegovina (hereinafter: the Ministry of Defence);
- d) The Ministry of Civil Affairs of Bosnia and Herzegovina (hereinafter: the Ministry of Civil Affairs);
- e) The State Regulatory Agency for Radiation and Nuclear Security of Bosnia and Herzegovina (hereinafter: the Agency).

## **Article 9**

### **(Approval authority)**

When giving the approval referred to in Article 8 of this Law, competent ministries shall in particular keep account of the following:

- a) The Ministry of Foreign Affairs:
  - 1) Restrictions and sanctions of the United Nations Security Council, the OSCE and the EU;
  - 2) International obligations undertaken; foreign policy interests and specific interests of Bosnia and Herzegovina vis à vis strategic foreign policy partners of Bosnia and Herzegovina;
  - 3) The European Union Code of Conduct on Arms Exports; and
  - 4) The principle of non-proliferation of weapons of mass destruction;
- b) The Ministry of Security:
  - 1) That issuance of licence is in accordance with the security policy of Bosnia and Herzegovina;
- c) The Ministry of Defence:
  - 1) That issuance of licence is in accordance with the defence policy of Bosnia and Herzegovina;
- d) The Ministry of Civil Affairs:
  - 1) That issuance of licence shall not endanger people's lives and health, environment, or material goods; and
- e) The State Regulatory Agency for Radiation and Nuclear Safety in Bosnia and Herzegovina:
  - 1) That procurement of a radiation source shall not violate the regulations pertaining to radiation and nuclear safety.

## **Article 10**

### **(Entry into Register)**

- (1) For performance of foreign trade of goods and services referred to in the control lists, all natural persons and legal entities should be entered into the Foreign Trade Operators Register (hereinafter: the Register) of the Ministry.
- (2) The registration procedure is regulated by implementing regulations that shall be adopted by the Ministry.
- (3) The Ministry shall adopt decisions on entry into the Register and decisions on rejection of application.
- (4) Legal entities and natural persons shall be deleted from the registry if:

- a) new facts are established, for which, had they been known at the moment of entry into the Register, it would not have been possible to enter the legal entity or natural persons into the register;
  - b) responsible person in a legal entity or natural persons has been validly sentenced for a criminal offence related to the business operation referred to in his registration:
  - c) he does not operate in accordance with this law;
  - d) he violates international prohibitions;
  - e) he terminates the performance of business activity;
  - f) he ceases to fulfil the conditions on the basis of which the decision was issued;
  - g) he submits a request to be deleted from the Register.
- (4) Persons entered into the Register are obliged to submit, in writing, all changes of data on the basis of which they were entered into the Register, within 30 days from the date the changes occurred.

## **CHAPTER II – CONTROL OF FOREIGN TRADE OF WEAPONS AND MILITARY EQUIPMENT**

### **Article 11**

#### **(Licence)**

- 1) Export, import and brokering of goods from the Common List of Military Equipment may be preformed only on the basis of the licence referred to in Article 5, Paragraph 1) a) of this Law.
- 2) The licences referred to in Paragraph 1) of this Article shall be issued with the validity of one year.
- 3) The form and content of licences referred to in Paragraph 1) of this Article shall be regulated by implementing regulations adopted by the Ministry.

### **Article 12**

#### **(Application for licence)**

- 1) Application for the licence referred to in Article 11, Paragraph 1) of this Law shall be submitted to the Ministry.
- 2) Attached to the application for export referred to in Paragraph 1) of this Article, it is mandatory to submit the following end-user documents:
  - a) End User Statement and Import Licence, or International Import Certificate issued by the competent state institution of the country of the end-user; or
  - b) End User Statement verified certified by competent state institution of the country of the end-user; or

- c) International Import Certificate issued by the state institution of the country of the end-user; or
  - d) End User Certificate issued by the state institution of the country of the end-user.
- 3) Attached to application referred to in Paragraph (1) of this Article, it is mandatory to submit the end user documents referred to in Article 7, Paragraph 1) of this Article.
- 4) The form and content of the licence application for, and list of other documents attached to the application shall be regulated by implementing regulation adopted by the Ministry.

### **Article 13**

#### **(Issuance of licence)**

- 1) In the procedure of issuance of licence referred to in Article 11, Paragraph 1) of this Law, the Ministry shall request prior approval from the competent bodies referred to in Article 8, Items a), b), and c) of this Law.
- 2) The Ministry shall issue licence within 60 days from the receipt of complete application, or within 90 days, if in the process of licence issuance, additional inquiries need to be conducted.

## **CHAPTER III – CONTROL OF FOREIGN TRADE OF DUAL-USE AND SPECIAL-USE GOODS**

### **Article 14**

#### **(Licence and International Import Certificate)**

- 1) Export and brokering of the dual-use and special-use goods may only be performed based on the basis of licence referred to in Article 5, Paragraph 1) of this Law. Export licences can be individual, global and general.
- 2) Export licence is required also for export of goods that are not listed in the Dual-use List, if such goods are, or may be, fully or partially, used for development, production, handling, operation, maintenance, storage, detection, identification or proliferation of chemical, biological or nuclear weapons, or for development, production, maintenance and storage of projectiles capable of carrying chemical, biological or nuclear weapons.
- 3) Export licence is required also for export of goods that are not listed in the Dual-use List, if those are goods for which the exporter should have known that they are used or could be used, entirely or in parts, for military end use, whereby the end user is from the country against which the UN Security Council, the EU, or the OSCE sanctions are applied.
- 4) The International Import Certificate referred to in Article 5, Paragraph 1) b) of this Law shall be required for import of dual-use and special-use goods.
- 5) The licences referred to in Paragraphs 1) and 2) of this Article shall be issued with the validity of one year.

6) The International Import Certificate referred to in Paragraph 3 of this Article shall be issued with the validity of six months.

7) The form and content of licences referred to in Paragraphs 1) and 2) of this Article, and International Import Certificate referred to in Paragraph 3) of this Article shall be regulated by implementing regulation adopted by the Ministry.

## **Article 15**

### **(Application for issuance of licence and International Import Certificate)**

(1) Application for issuance of the licences referred to in Article 14, Paragraphs (1), (2) and (3) of this Law shall be submitted to the Ministry.

(2) Application for issuance of the International Import Certificate referred to in Article 14, Paragraph (4) of this Law shall be submitted to the Ministry.

(3) Attached to the application referred to in Paragraph (1) of this Article, it is mandatory to submit the end user documents referred to in Article 7, Paragraphs (1) or (2) or (3) of this Article.

(4) Attached to the application referred to in Paragraph (2) of this Article, it is mandatory to submit the documents referred to in Article 7, Paragraph (1) of this Law and the competent entity body, or the competent cantonal body, or the competent body of Brčko District.

(5) The form and content of application for issuance of licence, application for issuance of the International Import Certificate, as well as the list of other documents to be attached to the application, shall be regulated by implementing regulation adopted by the Ministry.

## **Article 16**

### **(Issuance of licence)**

(1) In the procedure of the issuance of licence referred to in Article 14, Paragraphs (1), (2) and (3) of this Law, the Ministry shall request preliminary approval for:

- a. Dual-goods, from the competent bodies referred to in Article 8, Items a), b) and c); and
- b. Special-use goods, from the competent bodies referred to in Article 8, Item a) of this Law.

(2) The Ministry shall issue export licence within 60 days from the day of submission of complete application, and within 90 days, if additional inquiries need to be conducted in the procedure of licence issuance.

(3) Procedures for issuance of transit licence are not applied on dual-use goods that are only crossing the territory of Bosnia and Herzegovina, or for the goods for which alternative customs-approved procedure or purpose have not been determined, if the following conditions are met if:

- a) original export licence, issued by the exporting country, is presented;



- b) goods are not on the destination route of the countries subject to the UN Security Council, OSCE, or EU sanctions or prohibitions;
- c) there is no change of destination while goods are in transit through BiH;
- d) goods must leave the territory of BiH within 30 days from the day of entry into BiH.

### **Article 17**

#### **(Issuance of International Import Certificate)**

- (1) In the procedure for issuance of International Import Certificate for dual-use goods, the Ministry shall request preliminary approval from competent bodies referred to in Article 8, Items d) or e) of this Law, if such approval is required for the goods in question.
- (2) The Ministry shall issue the International Import Certificate within 60 days from the day of receipt of a complete application, or within 90 days, if additional inquiry is required during the procedure of licence issuance.

## **CHAPTER IV- COMPETENCES AND AUTHORIZATIONS**

### **Article 18**

#### **(Rejection of application)**

- (1) The Ministry shall issue its decision on rejection of application for issuance of document if:
  - (a) necessary approvals referred to in Article 8 are not obtained;
  - (b) data contained in application are incomplete or false, or if all the prescribed documents are not attached to the application;
  - (c) in his previous activities related to foreign trade operations, the applicant violated the legal provisions of this Law.
- (2) The Ministry shall issue its decision on rejection of application for issuance of document if goods do not correspond to the data provided in the application, and if the importer, or the manufacturer, has failed to enable the examination of goods and/or examination of documentation pertaining to the goods upon the request of the Ministry.

### **Article 19**

#### **(Revocation of document)**

- (1) The Ministry shall issue its decision on the revocation of document if:
  - (a) it establishes that the documentation was issued on the basis of false or incomplete information, while the applicant knew, or should have known that the data was false or incomplete;

- (b) such circumstances arise, or if new information is obtained, that, in case they existed, or had been known when the application for issuance of document was submitted, would have led to rejection of application for issuance of document;
  - (c) issued document is not used for the intended purposes;
  - (d) the legal entity does not operate in accordance with the provisions of this Law and other by-laws regulating this area;
  - (e) the legal entity prevents the conducting of supervision.
- (2) The Ministry is not responsible for the costs have incurred, or will be incurred by revocation of document.

## **Article 20**

### **(International cooperation)**

- (1) The Ministry shall inform the Ministry of Foreign Affairs of BiH on every export licence denial, wherein it shall include references to the country of destination, end user and end use, as well as all other information relevant for the denial of licence.
- (2) The Ministry of Foreign Affairs may inform other countries on each export licence denial, wherein it shall include references to the country of destination, end user and end use, as well as all other information relevant for the denial of licence.
- (3) If the Ministry learns that one of the OSCE member states has denied licence for similar foreign trade operation in the previous three years, the Ministry of Foreign Affairs shall consult the state which has denied the licence, before it gives its approval pursuant to this Law.

## **Article 21**

### **(Reporting)**

- (1) User of licence is obliged to inform the Ministry that his licence has been realised within 15 days from the date of realisation.
- (2) User of licence is obliged to submit to the Ministry his confirmation that the goods referred to in his licence have reached their final destination.
- (3) If, upon the issuance of licence, a change occurs relating business partner, end user, intended end use of goods, or other data contained in the licence, or in the documentation on the basis of which the licence has been obtained, the user of licence is obliged to inform the Ministry, in writing, on those changes within 8 days from the day the change occurred or he learned about the change, for the purpose of renewal of procedure.

## **Article 22**

### **(Records kept by the Ministry)**

(1) The Ministry shall establish a database of licences issued in accordance with Article 5 of this Law and shall submit its annual reports to the Parliamentary Assembly of BiH on licences it has issued.

(2) The Ministry of Foreign Affairs of BiH may request from the Ministry to provide the data on issued licences, data on denied licences, as well as other data pertaining to the foreign trade of goods of strategic importance, for the purposes of submission of data to the UN Secretary-General and the Secretariat of the Organisation for Security and Cooperation in Europe (OSCE).

### **Article 23**

#### **(Records kept by licence users)**

(1) Licence users are obliged to keep a detailed record of their licences, which should include at least the following information: description of goods, quantity, full title and address of exporter, importer, shipper and consignee, and broker, as well as the intended end use and full title and address of the end user of goods.

(2) The documentation referred to in Paragraph (1) of this Article (purchase orders, invoices, contracts, dispatch notes, delivery notes, bill of lading, and other documents) must be kept by licence users until at least five years after the end of the calendar year during which the foreign trade operation was carried out and, for the products included in the Common List of Military Equipment, at least ten years after the end of the calendar year during which the foreign trade operation was carried out. This documentation shall be submitted to the Ministry, upon its request.

(3) The Ministry may prescribe other details that must be contained in the documents referred to in Paragraph (1).

### **Article 24**

#### **(Supervision)**

(1) The Ministry shall perform supervision of the legal entity and natural person to whom licence has been issued, or who is registered for performing foreign trade of goods enlisted in the control lists.

(2) The Minister of Foreign Trade and Economic Relations shall prescribe the procedures regulating the supervisions referred to in Paragraph (1) of this Article.

## **CHAPTER V – PENAL PROVISIONS**

### **Article 25**

#### **(Sanctions)**

(1) A fine amounting to 20,000 to 50,000 KM shall be pronounced to:

a) Legal entity who fails to act in accordance with Article 21 of this Law.

- (2) A fine amounting from 50.000 to 100.000 KM shall be pronounced to:
- a) Legal entity who prevents the supervision to be conducted in accordance with Article 19, Paragraph (1), Item e) of this Law;
  - b) Legal entity who fails to keep records in accordance with Article 23 of this Law.
- (3) A fine amounting from 5.000 to 10.000 KM shall be pronounced to responsible person in legal entity if he:
- a) prevents the supervision to be conducted in accordance with Article 19, Paragraph (1), Item e) of this Law;
  - b) fails to keep records in accordance with Article 23 of this Law;
  - c) fails to act in accordance with Article 21 of this Law.

## **CHAPTER VI - TRANSITIONAL AND FINAL PROVISIONS**

### **Article 26**

#### **(Implementing regulations)**

- (1) Minister of Foreign Trade and Economic Relations of BiH shall adopt implementing regulations wherein he shall precisely define:
- a) Form and content of licence and International Import Certificate, as well as End User Certificate;
  - b) Form and content of application form for the issuance of Licence, International Import Certificate, End User Certificate and End User Statement, as well as the list of documents accompanying the application;
  - c) Method and procedure of foreign trade registration;
  - d) Method and procedure for regulating temporary import, temporary export, and transit of sporting and hunting weapons and ammunition.
  - e) Method of keeping record of documents.
- (2) Minister of Security of BiH shall prescribe the form and content of document for transit of goods enlisted in the control lists, as well as the procedures for issuing that document.

### **Article 27**

#### **(Deadlines)**

- (1) Implementing regulations referred to in Article 26 of this Law shall be adopted within 60 days from the day of entry into force of this Law.
- (2) Until the day of entry into force of the implementing regulations referred to in Article 26 of this Law, the following regulations shall be applied:

- a) Instruction on Registration of Legal Entities and Natural Persons in the Trade of Weapons and Military Equipment ("Official Gazette of BiH", No. 14/03);
- b) Instruction on the Procedures of Import, Export and Transit in the Trade of Dual-use Products and Technologies ("Official Gazette of BiH", No. 56/05);
- c) Instruction on Method and Procedure of Regulating Temporary Export, Import and Transit of Sporting and Hunting Weapons and Ammunition ("Official Gazette of BiH", No. 56/05);
- d) Instruction on Regulation of Export, Import, Transit and Brokering in the Trade of Weapons and Military Equipment ("Official Gazette BiH", No. 56/05)
- e) Instruction on the Obligation of Customs Bodies in the Implementation of the Law on Import and Export of Weapons and Military Equipment and the Control of Dual-Use Goods ("Official Gazette of BiH", No. 56/05)m and
- f) Instruction on Obligation to Obtain the EUFOR Approval for Import, Export, Transit and Brokering of Weapons and Military Equipment ("Official Gazette of BiH", No. 56/05);

## **Article 28**

### **(Transitional provisions)**

- (1) Until the publishing of official translation of the up-dated List of Dual-use Items and Technologies, the existing translation published in the „Official Gazette of BiH“, No. 75/05 shall be used.
- (2) Until the publishing of the BiH List of Special-use Goods, the procedures for issuance of licence for special-use goods shall be applied, without references made to classification codes in the licence.

## **Article 29**

### **(Re-entry into Register)**

Persons who were registered for import, export, transit or brokering of weapons and military equipment and dual-use goods according to previous regulations are obliged to renew their registration with the Ministry in accordance with the provisions of Article 10 of this Law within 180 days from the day of entry into force of this Law.

## **Article 30**

### **(Application of the Administrative Procedure Law)**

In cases pertaining to the procedure for determining the rights and obligations of natural persons and legal entities that are not envisaged by this Law, provisions of the Administrative Procedure Law ("Official Gazette of BiH", No. 29/02, 12/04, 88/07 and 93/09) shall be applied.

### **Article 31**

#### **(Putting out of force)**

With the day of entry into force of this Law, the validity of the Law on Export and Import of Weapons and Military Equipment and Control of Import and Export of Dual-Use Goods" ("Official Gazette of BiH", No. 5/03 , 33/03 and 14/05).

### **Article 32**

#### **(Entry into force)**

This Law shall enter into force on the eighth day from its publishing in the "Official Gazette of Bosnia and Herzegovina".