

WEAPONS UNDER SCRUTINY

**IMPLEMENTING ARMS EXPORT
CONTROLS AND COMBATING
SMALL ARMS PROLIFERATION
IN BULGARIA**

CENTER FOR THE STUDY OF DEMOCRACY

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Ognian Shentov
Boyko Todorov
Alexander Stoyanov

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5 Alexander Zhendov Str., 1113 Sofia
phone: (+ 359 2) 971 3000, fax: (+ 359 2) 971 2233
www.csd.bg, csd@online.bg



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ABOUT SAFERWORLD

Founded in 1989, Saferworld is an international NGO working to prevent and reduce armed violence, increase human security and create the conditions for sustainable development. Saferworld develops and implements regional programs and practical projects with local partners in Central and South Eastern Europe, Southern and Eastern Africa, the Caucasus and South Asia.

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ACRONYMS

ACPO	Association of Chief Police Officers (UK)
ADUGT	Arms and dual-use goods and technologies
APPG	All Party Parliamentary Group (UK)
BICC	Bonn International Center for Conversion
CHDO	Control of Hazardous Devices Office
CIS	Commonwealth of Independent States
CSD	Center for the Study of Democracy
DRC	Democratic Republic of Congo
DUGT	Dual-use goods and technologies
EU	European Union
EUC	End-user certificate
ISO	International Organization for Standardization
LCFTADGT	Law on the Control of Foreign Trade Activity in Arms and Dual-Use Goods and Technologies
MFA	Ministry of Foreign Affairs
MIC	Military-Industrial Complex
MoD	Ministry of Defense
Mol	Ministry of the Interior
NATO	North Atlantic Treaty Organization
NGO	non-governmental organization
OSCE	Organization for Security and Co-operation in Europe
R&D	Research and development
RPG	Rocket-propelled grenade
Phare	European Union pre-accession assistance program for Central and Eastern European countries
SALW	Small arms and light weapons
SEESAC	South Eastern Europe Clearinghouse for the Control of SALW
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Programme
UNITA	National Union for the Total Independence of Angola
UNSC	United Nations Security Council

EXECUTIVE SUMMARY

This report is divided into five parts. Part one provides an analysis of the social and economic reasons that have contributed to the reluctance among Bulgarian politicians to strengthen arms controls. It describes the transformation of the defense industry in the post-Communist transition period, as well as its current state. Part two provides an analytical description of Bulgaria's arms control mechanism. Part three examines the factors contributing to illegal arms exports from Bulgaria and offers some data from recent cases. Part four focuses on the potential social, economic, and political effects of stronger arms controls. The last section offers a number of recommendations for the improvement of the export-control system.

THE BULGARIAN DEFENSE INDUSTRY IN THE TRANSITION PERIOD

The roots of the current problems relating to Bulgarian weapons exports can be traced back to the days of communist rule, when about 90 percent of all defense industry products were exported. The technology and production structure of the Bulgarian military-industrial complex (MIC) was determined by its position within the Warsaw Pact. Bulgaria supplied weapons to other Warsaw Pact countries, as well as countries in the Middle East, Asia and North Africa, and to a number of other smaller markets. This trade was worth several hundred million US dollars a year and the arms industry was an important part of Bulgaria's national economy.

The difficult process of transition to democracy and a market economy, characterized by financial and economic crisis, a weakening of state control, and political instability, had a huge impact on the Bulgarian arms industry. Bulgaria's traditional export markets declined rapidly, for a number of reasons. Firstly, on a global level, an increased demand for modern armaments hurts exports of some of Bulgaria's relatively low-tech items, such as small arms and light weapons (SALW).¹ Secondly, increased export control measures, at the national and international level, restricted exports to a number of countries that Bulgaria had previously supplied, some of which came under United Nations (UN) embargoes. Thirdly, some of Bulgaria's traditional clients developed their own basic production capabilities, reducing their need for imports. Fourthly, most arms importers, especially those from former communist countries, shifted demand to weapons produced to NATO standards, thus reducing the demand for old soviet-style weaponry.

¹ The definition of small arms and light weapons used in this report is the one used in the 1997 United Nations Secretary General Report of the Panel of Governmental Experts on Small Arms (United Nations A/52/298, 27 August 1997). Small arms include revolvers and self-loading pistols, rifles and carbines, sub-machine-guns, assault rifles, and light machine-guns. Light weapons, some of which could be mounted on light vehicles, include heavy machine-guns, hand-held under-barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns, recoilless rifles, portable launchers of anti-tank missile and rocket systems; portable launchers of anti-aircraft missile systems, and mortars of calibers of less than 100 mm. SALW also includes the ammunition for these weapons, anti-personnel and anti-tank hand grenades, landmines, and explosives.

During the transition period, the arms trade, previously a purely state enterprise, became very much a private undertaking. Over 50 companies were granted general arms trade licenses. Throughout the 1990s, Bulgaria came under criticism by international human rights organizations and western media for lax arms export controls resulting in actual and alleged transfers of Bulgarian arms, often SALW, to embargoed states or countries of concern. This highlighted the need for Bulgaria to introduce more stringent controls over its arms exports.

THE CURRENT EXPORT CONTROL SYSTEM

The foreign trade in arms is regulated by the 1995 Law on the Control of Foreign Trade Activity in Arms and in Dual-Use Goods and Technologies, last amended in July 2002, and a government Regulation on the Implementation of the Law on Foreign Trade Activities in Arms and Dual-use Goods and Technologies. The amendments to the above Law and Regulation, which became effective in the second half of December 2002, include comprehensive provisions to control the activities of middlemen or brokers, requirements to improve the identification of end-users and prevent diversion of weapons shipments and increased penalties in case of violation.

The control system has a three level structure:

(1) Companies are first required to obtain a license to trade in arms and dual-use goods. This license is issued by the Interdepartmental Council on the Issues of Military Industrial Complex and Mobilization Preparedness of the Country (henceforth 'the Council') within the Council of Ministers. The Interdepartmental Council is chaired by the Deputy Prime Minister and Minister of Economy and members include the Deputy Ministers from several government departments.

(2) Once a company has a trading license, it needs to obtain a permit for every single transaction that entails export, import, transit, and re-export of arms or dual-use goods. The permit is issued by the Interdepartmental Commission on Export Control and Non-Proliferation of Weapons of Mass Destruction (henceforth 'the Commission') within the Ministry of Economy. The Commission is chaired by the Minister of Economy and also includes representatives from the Ministries of Defense, the Interior and Foreign Affairs (MoD, Mol and MFA).

(3) The company is subject to a number of additional controls and permits that include:

- A permit from the Control of Hazardous Devices Office of the National Police Service.
- An inspection by the Customs Agency and National Security Service at specific border crossings.
- Monitoring of the export by the export control specialist that every licensed company is required to have.
- The cargo shipping company also needs to be licensed by the Interdepartmental Council to transport arms to and from the territory of Bulgaria.

- Defense and arms trade companies under the MoD are obliged to obtain personal approval for all transactions from the Minister of Defense.

In addition to its national arms controls, Bulgaria is also committed to arms sale restraint in the context of regional and international control regimes, including the EU Code of Conduct on Arms Exports, the EU Joint Action on SALW, the OSCE Document on SALW, the Wassenaar Arrangement, the Australian Group, and the Nuclear Suppliers Group.

MAIN FINDINGS AND AREAS OF CONCERN

Despite important progress in strengthening arms controls and improving their implementation and enforcement, there are areas that continue to present Bulgaria with serious challenges.

SOCIAL AND ECONOMIC CHALLENGES

Under general conditions of economic underdevelopment and high unemployment, the government commitment to arms restraint faces serious obstacles, especially in towns and regions where defense companies continue to provide the majority of jobs. Since there is no substantial internal market, greater restraint in arms exports, in particular for SALW, would cause production cuts and significant job losses in regions that are already economically depressed.

Privatization through employee/management buyouts has not contributed to company development. Some companies remain in a poor state, with limited access to fresh capital, unable to invest in new technologies and lacking marketing, trade, logistics and business planning skills. Possibilities for alternative development of the traditional defense industry are quite narrow given the absence of defense industrial co-operation or access to western markets.

Several conversion programs have been developed during the transition to the free market economy, but they have had minimal or no impact. Conversion has been left to the companies' management rather than pursued purposefully by the government. There are no investments for restructuring and/or conversion, nor tax incentives or subsidies.

CONFLICTS OF INTEREST

There remain conflicts of interests. Although the arms trade is being transformed from a public into a private business, a number of production, trade, and repair companies remain state-owned. At the same time, the state institutions that oversee these companies, like the MoD and the Ministry of the Economy also exercise arms transfer control. Combining responsibility for control with development, production and trade activities may make controlling bodies too dependent on business.

WEAK OPERATIONAL CAPACITY

The application of the highest standards in the implementation and enforcement of arms export controls requires significant financial resources and well qualified civil servants. The low pay of the government administration and the lack of personnel development policies in most government institutions often result in a brain drain towards the private sector. Most of the relevant institutions lack sufficient capacity, especially in terms of qualified individuals. When the limited financial resources of state institutions are added to the picture, it becomes clear that the application of the highest standards in this field is problematic.

DESTRUCTION OF SURPLUS ARMAMENTS

Bulgaria has destroyed close to 100,000 SALW and around 7,500,000 ammunition units under a project funded by the US government. However, there remain significant quantities of arms stockpiles, in particular ammunition and SALW. Bulgaria's plans for military modernization and streamlining are likely to increase the stocks of surplus weaponry.

ILLICIT TRADE IN SALW

In the past two years no cases of significant illicit trade in SALW have been detected. It is increasingly common for small quantities of SALW to be smuggled by individuals across state borders. Such individuals utilize routes already established for smuggling drugs, human beings, cigarettes, etc. Strong controls have brought about the emergence of small illegal arms production shops. No organized criminal groups who specialize in illicit arms trafficking have been identified. Previous CSD reports have identified border and customs corruption as the biggest obstacles to tackling smuggling activities.

STOCKPILE MANAGEMENT

The levels and trends in illicit arms trade are also dependent on controls over stockpiles. All significant SALW stockpiles in Bulgaria are operated by the MoD. The MoD has a secure stockpile management system in place but some cases of theft persist. The security of stockpiles during transportation to different warehouses is a yet more significant problem. Such transportations have been more frequent during the past years of reorganization of the Bulgarian Armed Forces.

TRANSPARENCY

In the past decade very few Bulgarian NGOs have worked on arms control issues, and then only sporadically. Since the government seems to be reluctant to increase the level of transparency on the arms trade, domestic pressures for transparency will come mostly from the civil society sector.

RECOMMENDATIONS

This report concludes that despite the evolution of Bulgaria's arms export controls and its relatively clean record, compared to most of the 1990s, there is still room for improvement. The best approach to tackling all the issues raised in this report is through stricter implementation of the new export control mechanism adopted in 2002.

Such steps should focus on improving the enforcement practices and strengthening the capacity of Bulgarian governmental agencies by ensuring that they have the specialization and the resources to implement the new normative provisions. These steps must be accompanied by programs that address the root of the problem – the economic and political considerations of the defense industry. Although a national policy on the defense industry is a separate and complex issue, in the long term, arms export controls will be politically supported, implemented and strengthened only if the defense industry and the livelihoods of its 25,000 workers are not jeopardized but given prosperous alternatives.

The effective implementation of Bulgaria's export controls would boost its credentials as a reliable producer and exporter of arms while seeking membership of the European Union. It would also put Bulgaria at the forefront of the Stability Pact's efforts to tackle SALW in South East Europe. The recommendations provided in this report could serve as a baseline for taking some decisive steps towards improving the current system. The key recommendations are as follows:

TO THE BULGARIAN GOVERNMENT

Improve the implementation of the current export control system, particularly the organization and work of the Interdepartmental Commission, or establish an autonomous National Agency responsible for control over domestic distribution, import and export of arms, including SALW.

IMPROVING THE WORK OF THE INTERDEPARTMENTAL COMMISSION

- Introduce appropriate mechanisms to resolve existing conflicts of interests between political responsibilities and business activities.
- Remove the structural possibility of conflicts of interest affecting procedures for granting licenses and permits.
- Diminish the concentration of discretionary powers held by single individuals (particularly the Secretary of the Commission) in the export controls regime.
- Counteract the risk of corruption by regular rotation of key appointees.
- Increase the attention paid when evaluating permit applications to potential negative impacts of an export on conflict, instability, human rights abuse, or the attainment of development goals in the recipient country and the surrounding region.

- Give law enforcement bodies a greater role in the process of granting export permits.
- Reinstatement of the system for certification control over arms and explosives produced and establish a national centre for SALW tracking.
- Earmark license and permit fee revenues for activities which strengthen export controls.

CREATING A NATIONAL ARMS TRADE CONTROL AGENCY

- Consider the formation of a National Agency responsible for coordinating all aspects of the control of trade in arms and dual-use goods and technologies. The agency's activities would include – but not be limited to – coordinating: background checks and inspections; end-user verification; records of foreign and domestic transactions with information about all key participants; training of law-enforcement, civil service and defense company officials; a network of MIC officials responsible for self-regulation.

STRENGTHENING CONTROLS ON DOMESTIC TRADE IN ARMS AND DUAL-USE GOODS AND TECHNOLOGIES

- Introduce tough penalties for illicit internal trade in arms and dual-use goods and technologies in line with those applied to foreign trade.
- Ensure authorities are informed of domestic sales between Bulgarian companies.
- Introduce a permit requirement for domestic transportation of arms and dual-use goods and technologies.
- Improve information systems for tracking the sale and movement of weapons, and the acquisition of weapons by criminals.
- Pursue a program to collect illicit arms.

STRENGTHENING CONTROLS ON BROKERS

- Pursue the systematic availability of information on arms brokers, in concerted cooperation with the authorities in countries where they are registered or have permanent residence.
- Add provisions to the Penal Code which prescribe harsh penalties for the violation of export laws by brokers.

INCREASING TRANSPARENCY AND GOVERNMENT ACCOUNTABILITY

- Increase transparency to ensure the public accountability of the export control system and a climate of openness appropriate to a modernized defense industry.

- Publish annual reports on arms exports with sufficient detail for evaluating the implementation of Bulgaria's national and international commitments to arms restraint and non-proliferation.
- Create an Arms Control Sub-Committee within the National Parliament to exert parliamentary control over export control policy and its enforcement. Encourage public debate on and civil society involvement in parliamentary hearings on arms proliferation issues.

IMPROVING THE OPERATIONAL CAPACITY TO IMPLEMENT AND ENFORCE CONTROLS

- Increase funding to ensure that the necessary personnel and infrastructure are in place to implement the highest standards in arms export controls.
- Strengthen the capacity of arms licensing institutions to conduct thorough investigations before, and to monitor transactions carefully after, issuing arms trading licenses and permits.
- Ensure full co-operation with international partners where necessary in fulfilling the above recommendation.
- Improve surveillance and controls at land, sea, and airports.
- Conduct training to deepen company and employee responsibility for export control.

DISPOSING OF SURPLUSES AND IMPROVING STOCKPILE SECURITY

- Continue to destroy surpluses and seek, where necessary, international assistance. If surpluses are to be sold, this should be done more transparently.
- Strengthen the security of SALW and ammunition stockpiles. Ensure private security firms act within appropriate safeguards.

OVERCOMING ECONOMIC CHALLENGES

- Complete the privatization of the defense industry and seek to attract foreign investors. Promote joint ventures and offset agreements with foreign partners.
- Encourage conversion to other types of production, with the particular aim of reducing dependency on SALW exports.
- Increase initiatives to reorganize and restructure the SALW industry, using economic measures and other incentives to encourage conversion to civilian output or more sophisticated defense products.
- Restructure and increase investment in research and development activities to: reduce dependency on exports of SALW; and adapt defense production to the

high-technology needs of contemporary world markets in the context of Bulgaria's drive towards Euro-Atlantic integration.

- Offer tax incentives for the shift from SALW to civilian production.
- Intervene to lessen the social impacts of redundancies caused by modernization and conversion.

IMPROVING EDUCATION AND DOMESTIC DIALOGUE ON EXPORT CONTROLS

- Educate state institutions and the defense industry about international initiatives to stem arms proliferation.
- Increase efforts that encourage greater dialogue with the defense industry to promote understanding of and compliance with the new arms control norms.

TO THE DEFENSE INDUSTRY

- Bolster the reputation of the industry by improving transparency, and demonstrating adherence to ethical codes and training procedures in line with the spirit of Bulgaria's commitment to arms control.

TO THE INTERNATIONAL COMMUNITY

- Act to increase co-operation with the Bulgarian authorities, particularly in the fields of exchanging information on international arms brokers, and of building systematic regional links between export and transit control authorities at all levels.
- Assist Bulgarian initiatives to dispose of SALW and ammunition, and discourage further sales of surplus small arms.
- Support civil society initiatives to bring about the goals outlined in the present report.

TO CIVIL SOCIETY

- Conduct a campaign to raise public awareness of SALW proliferation and its implications, both for domestic gun crime and countries and regions exposed to conflict, underdevelopment, and the abuse of human rights.
- Demand an increase in transparency and civil society control over the arms trade through appropriate advocacy and campaigning initiatives.

INTRODUCTION

After years of inaction, Bulgaria has taken important steps to curb the trade of arms to troubled regions and countries, including improvements in its licensing procedures, regulations and enforcement. However, more work needs to be done to tighten legal controls, improve enforcement and strengthen the capacity of Bulgarian governmental agencies to ensure that they have both the specialization and the necessary resources to implement the new policies and normative provisions. This is particularly crucial at a time when Bulgaria continues to face economic hardship and the country still retains huge surplus stocks of arms, in particular small arms and light weapons (SALW).²

A number of domestic pressures make the export of arms, particularly SALW, important to any Bulgarian government. On occasion, this has resulted in exports to countries in conflict and to governments with poor human rights records. These internal pressures, which slow the creation of a strong and functional arms export control system, include: the over-capacity of the Bulgarian defense industry for SALW production; the financial difficulties of many defense companies; and the social and economic importance of the defense industry to some regions. Additional factors such as strong organized criminal networks, a weak judiciary, registered firearms proliferation, corruption in customs and border controls and entrenched institutional interests, further obstruct the functioning and the improvement of the current arms export control system.

The best prospects for the future would be offered by the adoption of a national program combining strict implementation of existing arms export controls with a strategy to reduce the economic over-dependence of some regions on SALW production and with effective international assistance. Such steps would boost Bulgaria's credentials as a reliable producer and exporter of arms while seeking membership of the European Union. It would also put Bulgaria at the forefront of the Stability Pact's efforts to tackle SALW in South East Europe.

The current report is a first step towards achieving the above goal. A national assessment of existing arms export controls was undertaken by a team of Bulgarian experts from governmental institutions and non-governmental groups from January to May 2003. Building on Saferworld's previous research work on Bulgaria, this new assessment, whose findings have been used to develop this research report, provided more in-depth analysis of the key challenges posed by the Bulgarian arms control system and outlined ways to overcome such problems. The assessment focused on a range of issues, including the implementation of policy and legislation on arms export controls, the mechanisms, routes and circumstances involved in proliferation, trafficking and transport of SALW and the economic impact of stricter arms export controls on the regions where SALW production is an important source of income.

² Definition of SALW was provided on page 9

The writing of this report was based on continuous partnership between governmental and non-governmental sectors. CSD formed a working group that included experts from the MoD, the MFA, the Mol, the Ministry of the Economy, and the University of National and World Economy. In May 2003, Saferworld, CSD, and the Atlantic Club organized a workshop that discussed the feasibility of a Bulgarian National Action Program. The conclusions of the workshop have also been integrated into this report.

A necessary element in the system of public accountability in the implementation of arms export controls is the involvement of civil society organizations. The participation of civil society in monitoring a traditionally secretive sphere of governmental activities is necessitated by the need for objective assessments, not influenced by political, institutional or commercial interests. Apart from NGOs working on humanitarian issues (e.g. the Bulgarian Red Cross), there has been little involvement of Bulgarian civil society in this area. The Atlantic Club of Bulgaria and the Center for the Study of Democracy are the only two other organizations that have been involved in organizing round-table discussions on the issue of arms controls. The current paper is the first of its kind in Bulgaria.

1. THE BULGARIAN DEFENSE INDUSTRY IN THE TRANSITION PERIOD

The following background on the Bulgarian defense industry is provided for two broad reasons. First, the importance of the industry in the national and some local economies is key to understanding the domestic politics of arms controls. Second, analysis of issues such as overcapacity, conversion to civilian production, industry structure, and domestic markets, provides a clearer background to problems such as SALW stockpiles and illicit arms transfers.

During the communist period, the Bulgarian Military-Industrial Complex (MIC) was characterized by a clear focus on manufacture for export (about 90 percent of its output), advanced production technology and efficient production structure. Its product range was oriented towards market niches and Bulgaria's specialization within the Warsaw Pact.³ This specialization included SALW, armored vehicles, and electronics.⁴ Bulgaria supplied arms to countries from the Warsaw Pact, the Middle East, North Africa, India and other smaller markets.⁵ A relatively large share, between 30 and 40 percent of the exports, depended on the political relations that Bulgaria had with these partner countries. This trade was worth several hundred million US dollars per year.

The healthy state of the defense industry at the start of the transition period was due to its privileged position under communism, rather than to exceptional management. A large part of the loans granted in these years were to ensure Bulgaria's mobilization preparedness. After 1989, the MIC underwent widespread structural reforms that reorganized the MIC branch structure, reduced production, stopped technological upgrades and brought the reconstruction and modernization of company plants to a virtual halt. In the early 1990s, the management and the large bureaucracy of the defense companies still carried the mentality of the command-administrative economy. There was a need for a new business culture and a new type of relationship with the state, as the MIC was still state-owned. The state did not succeed in formulating a consistent defense industry policy or guidance for long-term development. Reforms were often simply imposed or took shape on an *ad hoc* basis, in response to severe crises within the industry.

The organizational restructuring of the MIC led to the break-up of large economic units into individual companies.⁶ Large economic conglomerates such as Metalchim

³ Dimitrov D, Ivanov T, *Problems of National Defense Economy at the end of the 1980s and beginning of the 1990s*, [in Bulgarian] (University Publishing House 'Stopanstvo', Sofia, 1993) pp 94, 148.

⁴ Dimitrov D, *The Restructuring and Conversion of the Bulgarian Defense Industry during the Transition Period*, BICC Paper 22, (Bonn International Center for Conversion, 2002), p 13 (henceforth *Restructuring and Conversion*).

⁵ *Ibid*, p 17; Brauer J, van Tuyil H, 'Division of Labor in the Non-Soviet Warsaw Pact Arms Industry: 1945–89', in eds Chatterji M, Fontanel J, Hattory A, *Arms Spending, Development and Security*, (Ashish Publishing House, New Delhi, 1996), pp 115–135, p 128.

⁶ Dimitrov D, 'The Bulgarian Defense Industry During the Transition Period (1990–1997)', *Journal of Slavic Military Studies*, vol 11, no 4 (December 1998), pp 175–189.

and Electron were dissolved and transformed into 134 new companies. The only positive result of the restructuring process was the new horizontal management structure. However, there might have been additional positive effects, had the privatization process and the modernization of products and technologies been timely and speedy.⁷ In the new market economy the state could not control the management of the defense companies and had to allow them a higher degree of independence. Some managers, though, worked on the assumption that they could incur losses with impunity and rely on state subsidies and bailout credits. The government did not sanction or replace such managers. This was partly due to the fact that until 1997–1998 defense companies were used as a mechanism to maintain low unemployment. Moreover, in 1996, the bad loans crisis in the banking sector was covered up by the government until most banks in the country were declared insolvent.

In the new free market conditions the defense companies had to determine their products and market strategies on their own. The defense industry was in a rather precarious position because successive governments had failed to define clearly the different roles of the state as owner, key broker, customer, regulator and business promoter. Thus, conflicts of interest became unavoidable. More attention was given to defense trade regulation, without tackling in any depth the full range of problems related to the restructuring of the defense industry.

In the absence of clear state procurement needs it was difficult for companies to project their level of output. In addition, the state retained controlling functions in the marketing of MIC products without making any commitments to find markets for them. Eventually, this lack of clarity over demand led to a sharp decrease in output, and threatened the solvency of some defense companies.

Moreover, the annually adopted defense budget provides the industry with an inadequately short timeframe to adjust any strategic planning. In the principal documents on national security and defense, such as the National Security Concept (1998), the Military Doctrine of the Republic of Bulgaria (1999), and the Law on Defense and the Armed Forces (1995), the role of the defense industry is hardly mentioned at all. The parameters of the newly proposed Armed Forces Modernization Plan, which are relevant to the participation of Bulgarian industry, are still uncertain. As international experience shows, there is normally no sustainable development of a national defense industry without it having a sizable share of a reliable and protected domestic market.

These problems were compounded by the absence, until 1997, of a clear government position on the country's integration into NATO or the EU. Arms production is dependent on the state's choice of partners for economic and security co-operation. Such alignments not only result in joint production partnerships and collaborative research, but frequently also determine the marketing strategy and product line.

The extraordinary degree of secrecy surrounding MIC companies was yet another obstacle standing in the way of defense industry restructuring. Secrecy precluded the involvement of many specialists in a broader debate on the future of the MIC. Any information on the import and export of defense products, the defense budget and

⁷ Dimitrov D, *Restructuring and Conversion*, p 41.

procurement was treated as a state secret. Since hopes for the revitalization of the defense industry were not supported by reliable analyses of the industry's capabilities and the actual levels of production and exports, the secrecy surrounding the industry fuelled unrealistic public expectations and thus exacerbated social tensions in regions dependent upon the industry.

Since measures were often contradictory and unclear, the defense industry was sent confusing signals. On the one hand, there was publicly-stated government support for the industry, the recognition of its problem areas, and the retention of state ownership because of the companies' strategic importance. The MoD organized arms exhibitions, intentions for enhanced international co-operation were stated, and the MIC was promised participation in the re-armament of the Bulgarian army. On the other hand, privatization was delayed, and no investment for restructuring and/or conversion was provided, nor were there tax incentives or subsidies.

1.1. DEFENSE INDUSTRY PRIVATIZATION AND ITS IMPACT ON EMPLOYMENT

The privatization of the defense industry was marked by an inconsistent and protracted policy process. A three-year moratorium (1993–1996) on MIC company privatizations prevented suspicious deals but it also became an excuse to postpone a decision on whether the MIC should be privatized at all.⁸ The lack of consistent policy deterred potential foreign investors, reduced the financing opportunities of the industry, and eventually rendered some companies insolvent.

At the end of the three-year moratorium a total of only 23 (out of 134) companies were defense products manufacturers. The others had either closed down or converted to civilian goods. In 1998 the government worked out a program for the privatization and restructuring of the defense industry envisaging that the state would keep a limited stake of 34 percent in 'golden' shares in no more than five key companies. Today there are around 26 defense companies in the industry, with about 15 more companies producing dual-use goods and technologies. Although several foreign companies showed an interest in the privatization, no foreign investors purchased companies. Most of the companies were privatized through employee/management buyouts.

The privatization process did not bring immediate positive results. According to some publications, most of the companies are hardly breaking even.⁹ Employment in the defense industry also fell dramatically, from 110–115,000 at the end of 1980 down to around 25,000 in 2003. The social and economic effects on towns like Sopot, Kazanlak, and Karlovo was markedly severe.¹⁰ Over the period 1995–2001 the unemployment rate increased dramatically in the municipalities of Kazanlak, Karlovo and Lyaskovets (See Table 1). According to industry sources, employment at Arsenal Co. in Kazanlak, a city of 81,000, fell from 25,000 to about 4,300.¹¹

⁸ Georgiev G, chapter in eds Ivanov T, Tzvetkov T, Dimitrov D, *Common European Defense: Economic Aspects*, [in Bulgarian], (University Publishing House 'Stopanstvo', Sofia, 1998), p 196.

⁹ Bialos J, *The Bulgarian Defense Industry Strategic Options for Transformation, Reorientation & NATO Integration*, The Atlantic Council of the United States, Policy Paper, July 2001, p 12.

¹⁰ *Ibid*, p 11.

¹¹ Interviews with industry representatives in Sofia, Bulgaria on 25 September 2003.

Table 1. Unemployment – Average Annual Number of Registered Unemployed for the Period 1995–2001.¹²

Municipality	Year						
	1995	1996	1997	1998	1999	2000	2001
Kazanlak	2947	3690	4047	3318	4381	6131	6746
Karlovo	4490	2360	2871	2646	3421	5630	5378
Lyaskovets	669	783	1048	792	1059	1836	2120

1.2. PRODUCT REORIENTATION AND CONVERSION

Product reorientation

The new private owners have had limited access to financing and have been unable to invest in new technologies, and are thus compelled to rely on old products. The state has distanced itself from research and development (R&D). Currently the government spends annually about 0.36–0.39 percent of the defense budget (or € 1.5–1.6 million), much less than the standard expenditure in Europe of 1.2–2 percent.¹³ Human resources in the research field are in constant decline due to low pay, better opportunities in other industries, or better offers from the defense sectors of other countries. This will lead to permanent decline in the defense industry's R&D, and will maintain the dependency on SALW production and export (which involves less technological sophistication). Contemporary defense production employs a high degree of technology and scientific knowledge. The share of R&D costs in the development of new defense products has been continually growing.

There are a few isolated cases of conversion to NATO-compatible production, but the process has been slow. More and more defense firms are introducing NATO and International Organization for Standardization specifications (such as ISO 9000 standard) to increase their competitiveness. Some companies have already been able to sell arms to NATO member countries, but only after their production process has been tested and certified by NATO member states or by NATO itself.¹⁴

Bulgaria is a traditional producer of SALW. This is a shrinking and thus increasingly competitive market, characterized by heavy dependence on regional conflicts. Keeping in mind recent mergers of large arms producers in Europe and the US, small Bulgarian producers cannot compete independently in these markets.

The lack of marketing and business planning skills continues to pose difficulties. Insufficient foreign language skills and a lack of experience in approaching potential Western partners create additional obstacles to integration. Bulgarian producers have

¹² National Employment Service, [in Bulgarian] <<http://www.nsz.government.bg/>>

¹³ Ministry of Defense, *Defense Industrial Cooperation*, MoD: Sofia 2003, p.12.

¹⁴ Bialos J, *op cit*, p 24.

been unable to apply combined pressure on the government to involve them in compensation agreements and offset deals when the government makes significant purchases from foreign manufacturers.

Conversion

The government tried unsuccessfully to implement a number of conversion policies during the transition period, particularly in 1989 and the early 1990s. There were two approaches to conversion.¹⁵ The first used the existing facilities and production lines. This process proved difficult, because facilities and equipment often had narrow, defense-oriented technical specifications. Most factories were built with a high level of specialization and with a capacity for civilian production not surpassing 10–20 percent of total output.¹⁶ Thus, investment in assets prior to the transition period did not yield the expected returns, as these assets could not be converted. The second approach involved the purchase of new technologies and production lines. However the lack of an adequate financing instrument proved a significant obstacle.¹⁷ This was further compounded by the lack of marketing or research and development resources, as well as insufficient technological expertise in the production of civilian products.

Moreover, the conversion process itself was on shaky ground because the government was not clear which companies needed to preserve their capability to convert back to arms production. Consequently, parallel defense and civil production capacities were retained at a very high cost. In any case, either approach to conversion was predisposed to be ineffective because the focus was on the micro level of the factory or company. The government did not have an overarching policy that considered the entire industry.¹⁸ Moreover, there have been no recent government plans for further conversion programs.¹⁹ Consequently, the main defense companies continue to focus on their defense business rather than on civilian production, as the former is much more profitable.

1.3. ARMS EXPORTS

During the late 1980s, Bulgaria's exports averaged \$900 million per year²⁰ and reached as high as \$1.5 billion.²¹ The defense output and export trends are hard to analyze in detail since the information on them is classified.²² Industry estimates for exports in 2000 were \$100 million.²³ Government sources estimated total exports for 2002 close to \$90 million, of which \$30 million is in small arms, not including small arms ammunition.²⁴

¹⁵ Dimitrov D, *Restructuring and Conversion*, p 75.

¹⁶ Bonn International Center for Conversion, *BICC Conversion Survey 2001: Global Disarmament, Demilitarization and Demobilization*, (Baden-Baden, Nomos Verlag, 2001), p 68.

¹⁷ Gonchar K, Wulf H, 'Lessons learned from Conversion in Russia and Western Europe', *Journal of Defense and Peace Economics*, vol 9 (4), 1998, pp 339–367.

¹⁸ *Ibid*, p 75.

¹⁹ *Ibid*, p 78, and interviews with government officials in Sofia, Bulgaria on 15 August 2003.

²⁰ Tenchev M, 'Bulgaria's Military Industrial Complex: Between the Nostalgia and the Good Management', [in Bulgarian] *Capital*, 29 March 2002.

²¹ Interviews with government officials, 13 October 2003.

²² Art 25, Addendum 1, item 11, 17, 22, Law on the Protection of Classified Information, [in Bulgarian] State Gazette (SG), 45/2002.

²³ *Ibid*.

²⁴ Interviews with government representatives, 5 October 2003.

Government officials often formally announce significantly higher export figures but industry and government experts consider these incorrect and politically motivated.²⁵

The diminishing trends of Bulgaria's exports are in line with global trends. Global arms deliveries for 2002 were \$29 billion, down from \$42 billion in 2000, which is and the second lowest figure since 1995. The leading exporters remain the US, Russia, the UK, France, and China.²⁶ Thus, in a global perspective, Bulgaria's exports represent an insignificant share. Domestically, the macroeconomic importance of arms exports also should not be overestimated. In 2002 Bulgaria's arms exports represented only about 1.6% of total exports which reached \$5.69 billion.

Nevertheless, the effects of this relatively small-scale export output may be disproportionately high when it reaches zones of conflict. In the past three years some of Bulgaria's exports have gone to such zones.²⁷ According to its submission to the UN Register of Conventional Arms, in 2002 Bulgaria exported six 130mm M-46 artillery systems to Uganda, a country that is not only embroiled in a civil war, but whose government has played a very controversial role in the civil war in the neighboring Democratic Republic of Congo (DRC). Another ten 120mm mortars went to the Ivory Coast, a country that is engulfed in a civil war itself and which at the time was supporting and arming the Movement for Democracy, a rebel group fighting in neighboring Liberia.²⁸ Keeping in mind that the UN register reveals only major weapons systems, the possibility that ammunition and SALW were also delivered to these countries cannot be ruled out. Most troubling is that, despite the UN Security Council (UNSC) and the OSCE sanctions on Armenia and Azerbaijan, and despite both being on Bulgaria's own list of restricted destinations, arms were sold to both countries.²⁹ In 2002 Bulgaria sold to Azerbaijan thirty-six 130 mm M-46 artillery pieces, most likely equipment made surplus in the downsizing of Bulgaria's Armed Forces. Apparently such a step was in line with the US decision to lift its own embargo and to provide military assistance to Azerbaijan as part of the fight against terrorism.³⁰ Yet it is doubtful that 130 mm artillery could serve Azerbaijan's counter-terrorism efforts. In the absence of transparency in the arms trade, it is legitimate to ask whether the Bulgarian government could have received assurances that these arms would not be used in a way that would heighten tensions over the disputed territory of Nagorno Karabakh. It is questionable whether the above mentioned exports were in the spirit of the EU Code of Conduct on Arms Exports, to which Bulgaria aligned itself in 1998, and whose third criterion calls on members "not to allow exports which would provoke or prolong armed conflicts or aggravate existing tensions or conflicts in the country of final destination."³¹

²⁵ Bialos J, *op cit*, p 10. In February 2003, the Bulgarian Deputy Minister of Economy, Milen Kekeremedchiev, said in an interview to *Dnevnik*: 'NSI statistics do not include trade in arms and dual-use goods which rose from 40 million US dollars in year 2000 to over 500 million dollars in 2002. This means from the 1.35 billion US dollars statistically recorded foreign trade deficit we should subtract about 400 million dollars or over that were spent on arms trade'. *Dnevnik*, 6 February 2003.

²⁶ Gimmet R, 'Conventional Arms Transfers to Developing Nations', CRS Report for Congress – RL32084, 22 September 2003, pp 17–18.

²⁷ The data on the arms transfers in this section comes from the database of the UN Register of Conventional Arms <http://disarmament2.un.org:8080/UN_REGISTER.nsf>

²⁸ *Ibid*; Takirambudde P, 'Liberia: Where the Arms Come From,' *International Herald Tribune*, 17 September 2003.

²⁹ These sanctions are not legally binding.

³⁰ Garcia V, Stohl R, 'US Arms Sales to Azerbaijan,' *Center for Defense Information*, Washington, 21 March, 2003.

³¹ EU Code of Conduct for Arms Exports, 8 June 1998.

1.4. SALW PRODUCTION AND EXPORTS

Bulgaria is a small player in the SALW market. The Small Arms Survey estimates the global trade in small arms at \$4 billion. The global market in small arms is dominated by Russia and the United States, and small arms are produced in 98 countries by 1134 companies, 44 percent of which are in Europe and the CIS.³² In 2002 Bulgaria exported around \$30 million³³ in small arms and, thus, has less than one percent of the estimated small arms market. The illicit trade in small arms is estimated at \$1 billion.³⁴ Bulgaria's share in the illicit trade, if it has one, would be also insignificant. In the last few years, with the exception of smuggling of small amounts of SALW by individuals, there have been no reports of illegal exports of SALW.

As in other countries in Eastern Europe, Bulgaria's SALW trade declined dramatically during the transition period. This was due to a number of external factors. First, the demand worldwide has shifted to favor advanced high-tech armaments. Second, some of the developing countries that were traditionally Bulgaria's clients have managed to build their own SALW production capabilities. The number of international conflicts requiring small arms and ammunition have subsided, and access to these markets has been restricted by increased control measures at national and international levels.

The solvency of prospective clients is likewise problematic for the industry. Common weapon procurements are being replaced by more complex contracts including maintenance agreements, and staff-training or offset agreements. Many Bulgarian producers cannot offer these at competitive rates. They are thus left with erratic high-risk deals for one-time deliveries to clients that are not known and are often unreliable.

SALW production is one of the main components of Bulgaria's defense industry. The five companies producing SALW are Arcus JSC, Arsenal JSC, NITI JSC, VMZ, and Samel-90.³⁵ The total number of employees is around 11,800. Of these, Arsenal has 4,300 employees, NITI 250, VMZ PLC 4,300, Arcus 3,100, and Samel-90 550. While VMZ and NITI are entirely state-owned, the other three are privately owned, but the state has retained 36 percent ownership in Arsenal. The share of civilian production in all of them is well under 50 percent. Over 90 percent of the SALW production in all five companies is exported.³⁶ Arsenal, who in 2002 exported close to \$25 million worth of arms and ammunition, remains the leading company. It should be noted though, that the tendency in SALW production, according to industry representatives and government sources, was to produce ammunition rather than small arms.³⁷

³² Graduate Institute of International Studies, *Small Arms Survey Yearbook 2003: Development Denied*, (Oxford, Oxford University Press, 2003), Chapter 1.

³³ Interviews with government officials, 5 October 2003.

³⁴ Graduate Institute of International Studies, *op cit*, pp 1–2.

³⁵ Two more companies, not discussed in this report, Opticoelectron and OMZ JSC produce sights and optical parts for SALW. Two branches of the MoD-owned *Terem* company (www.terem.bg), in Veliko Tarnovo and in Kostenetz also produce certain types of SALW. The Veliko Tarnovo branch produces spare parts for and repairs small arms. The Kostenetz branch repairs rifle and mortar ammunition. It also produces a number of training and smoke grenades, as well as several types of explosives. Not much is known about the exports of either branch, or their production capacity.

³⁶ Armaments and Equipment Policy Directorate, *Defense Industrial Co-operation*, (Ministry of Defense, Sofia, 2003).

³⁷ Interviews with government and defense industry officials, September 2003.

Although the total amount of exports is not large, Arsenal's exports rank it among the top 20 exporting companies in Bulgaria.

Arcus is the most financially stable SALW producer. It was privatized by employee-management buyout, and unlike other MIC companies privatized in the same way, it managed to become profitable. Its product range has doubled to about 60 items, about half of which are SALW related. They include ammunition for Kalashnikov assault rifles, semi-automatic guns, grenade launchers and mortars.³⁸ In 2002 the value of its production grew to a 10-year high of 60 million leva (€30 million).³⁹ Its most recent investment has been in the construction of a facility for disposal and recycling of ammunition. The company is also certified able to export its production to NATO countries. The company has confirmed that its products are exported to five NATO member-countries, Asia, the Middle East, and India.⁴⁰ In the first half of 2003, there were media reports that Arcus had exported 12,000 handguns to the US, a claim which government officials later denied.⁴¹ In May 2003 the Italian Beretta visited Arcus, Arsenal, and Opticoelectron and apparently is considering investing in the production of SALW.

Arsenal is the biggest SALW producer, and the only producer of Kalashnikov assault rifles (5.45, 5.56, 7.62 mm). In addition the company produces pistols and ammunition for firearms and mortars.⁴² Its products have long been exported to India. Most recently the company announced that it would be supplying the new Iraqi army with SALW.⁴³ The company is also hoping to supply the Bulgarian Armed Forces with NATO-compatible 5.56 mm assault rifles.⁴⁴ Arsenal's recent certification with AQAP 110 Certificate has raised hopes for more exports to NATO countries. The company, though, is in a very difficult financial position. Reportedly, its exports for the first half of 2003 have barely reached \$2 million. Many of its employees work only part-time or sporadically.⁴⁵ There have been reports of further lay-offs of about 2,000 workers, a very difficult step politically, in a town that already has 25 percent unemployment.⁴⁶

NITI Kazanlak is the former research and development branch of Arsenal ("NITI" stands for Science, Research, and Technology Engineering). On Arsenal's privatization NITI remained a separate state-owned company. Its SALW production is small and comprises the SPS handgun, the Mazalat hunting rifle, a barrel adaptor for the Makarov handgun, some small arms ammunition, and anti-tank mines. In addition the company produces a range of artillery ammunition. Not much is known about NITI's exports but, given the company's small production capacity and facilities, its SALW exports are probably insignificant.

³⁸ A full list of Arcus Co. products is provided at the company's website < <http://www.arcus-bg.com/> >

³⁹ 'Arcus Invests 1.5 Million in a New Production Line,' [in Bulgarian] *Pari*, 10 January 2003.

⁴⁰ 'Arcus Exports for Five NATO-Member Countries,' [in Bulgarian] *Trud*, 9 January 2003.

⁴¹ Interviews with government officials, 17 October 2003.

⁴² A full list of Arsenal's products could be found on its website:
< <http://www.arsenal-bg.com/defense.htm> >

⁴³ 'Arsenal Will Supply the New Iraqi Army,' [in Bulgarian] < www.mediapool.bg >, 2 October 2003.

⁴⁴ 'The Army Starts the Substitution of Russian Assault Rifles with Bulgarian Ones,' [in Bulgarian] *Dnevnik*, 12 June 2003.

⁴⁵ Interviews with industry representatives, September 2003.

⁴⁶ 'In Kazanlak, the Bulgarian Socialist Party Has Split for the Elections,' [in Bulgarian] *Sega*, 20 August 2003.

The state-owned VMZ Sopot is among the largest 100 companies in Bulgaria, but is also one of the least successful.⁴⁷ In 2000, the company had a net loss of 40 million leva (€20 million). Its revenue in 2001 was 63.5 million leva (€31.7 million), but its short-term debt was 90 million leva (€45 million). During 2002–2003 its employees, whose salaries went unpaid for several months, went on strike at least twice.⁴⁸ Two civilian production units of the company were sold last year, in order to cover debts and salaries owed to employees.⁴⁹ The production line of the company is quite extensive, only 40 percent being for civilian goods. Its production includes a range of artillery and aviation ammunition. In the field of SALW, it produces man-portable (Stinger-type) anti-aircraft missile systems and RPGs (rocket-propelled grenade) systems.⁵⁰ Reportedly, the company has been working mainly on India-bound production,⁵¹ but most likely these have been artillery ammunition exports.

Samel-90's military production consists mainly of military communication equipment. Samel-90 produces *Strela* and *Igla* portable anti-aircraft missile systems but the export destinations for these are not clear. Civil production forms a significant proportion of the company's output.

The majority of the above companies' arms exports (but not all) are conducted through brokers. The state-owned broker, Kintex, and the less active Teraton, as well as close to 70 smaller brokers are involved in exporting Bulgaria's arms and dual-use goods.⁵² It is not clear, though, how many of them focus on SALW. Kintex is the only broker authorized to export to India, which is Bulgaria's biggest client. The privatization of Kintex and Teraton has also been stalled for over a year, but plans remain for the two companies to be sold.⁵³

Another state-owned trading company, newly involved in trading small arms, is Contactless Multiplexing Systems (CMS).⁵⁴ CMS is a company owned by the Ministry of Interior and until January 2002 was solely involved in providing the MoI with security alarm systems. Since then, the company has created a chain of firearms stores and developed a firearms repair shop. Its primary activity seems to be importing and selling firearms for civilian use. In February 2003 CMS purchased 1,300 firearms that had been confiscated by the police in previous years.⁵⁵ The company has a license to export arms but no information on its exports has become public so far.

⁴⁷ 'The Biggest 100 Bulgarian Companies, or What is Cooking in the Shadow of the Monopolies,' [in Bulgarian] *Capital*, 24 January 2003.

⁴⁸ 'VMZ Asked the Government 16 Million Leva Debt Forgiveness,' [in Bulgarian] *Capital*, 22 August 2002.

⁴⁹ *Ibid.*, and 'Erato Holding Buys a Unit of VMZ-Sopot,' *Dnevnik*, 18 March 2003.

⁵⁰ Armaments and Equipment Policy Directorate, *Defense Industrial Co-operation*, 2003, p 74.

⁵¹ 'VMZ Sopot is Hardly Making It' [in Bulgarian] *Trud*, 2 December 2002.

⁵² 'Who is Trading with Arms in Bulgaria,' [in Bulgarian] *24 Chasa*, 4 December 2002.

⁵³ 'Still No Evaluation Experts for Kintex and Teraton,' [in Bulgarian] *Pari*, 25 July 2003.

⁵⁴ More about CMS [Bezkontaktni Multipleksorni Verigi] could be read on its website <http://www.bmv.online.bg/eng/index_en.htm>

⁵⁵ 'Mol Firm Buys a Police Arsenal,' [in Bulgarian], *Trud*, 2 January 2003.

2. BULGARIA'S EXPORT CONTROL SYSTEM

2.1. PRESSURES FOR CHANGING THE SYSTEM

It is important to understand that the strengthening of arms controls in Bulgaria was largely the result of sustained pressure from the international community. The pressures came from NATO, the EU, the US, the UN and international NGOs. US-based Human Rights Watch has been one of the leaders in this effort. Its 1999 report, *Bulgaria: Money Talks – Arms Dealing with Human Rights Abusers*, reported Bulgarian exports to war-torn countries such as Angola, Peru and Ecuador, to separatist forces in southern Yemen and West Bengal, to genocide perpetrators in Rwanda, to a Colombian drug cartel operating in the US, to Congolese rebels in the Democratic Republic of Congo, and to human rights abusers in Uganda, Sierra Leone, and Burundi.⁵⁶

Pressure also came from the UN. In 2000, the UN Security Council Committee investigating violations of the Security Council sanctions regime on Angola's UNITA forces found that Bulgarian-made weapons were sold to UNITA rebels under fake end-user certificates between 1997 and 1999. Although the Bulgarian government may have been unaware of the final destination, lax arms controls were used by brokers to export the arms.⁵⁷ Following the investigation the panel's chairman, Ambassador Anders Moellander of Sweden, stated that Bulgaria was co-operating with the panel to tighten arms export controls.⁵⁸

The most effective pressures came in the context of EU enlargement and NATO accession. In its annual Regular Report for 2000 on Bulgaria's progress towards EU accession, the European Commission called for revisions of the legislation "to ensure tighter controls on trade in arms and clearer division of responsibilities between institutions to eliminate potential sources of conflict of interest."⁵⁹ Negotiations with the EU on Bulgaria's adoption of the Common Foreign and Security Policy (Chapter 27) were concluded under the express condition that the country would bring its arms trade legislation in line with the highest existing standards.⁶⁰ NATO accession was also a stimulus for change. Even after the official invitation to join NATO, during a visit in

⁵⁶ Human Rights Watch, *Bulgaria: Money Talks – Arms Dealing with Human Rights Abusers* (New York, Human Rights Watch, 1999). HRW continued its campaign through a number of advocacy letters and a follow-up background brief *Reforming Bulgaria's Arms Trade: an Update*, (accessed on 5 October 2003).

⁵⁷ United Nations, Panel of Experts established by the Security Council pursuant to resolution 1237, Report of the Panel of Experts on Violations of Security Council Sanctions against UNITA, < http://www.un.org/News/dh/latest/angolareport_eng.htm > , (accessed 5 October 2003).

⁵⁸ Robert McMahon, 'UN: Bulgaria Faces Scrutiny Over Sanctions Report,' *Radio Free Europe*, March 2000. < <http://www.rferl.org/nca/features/2000/03/F.RU.000316152729.html> > (accessed 5 October 2003).

⁵⁹ European Commission, *Bulgaria: 2000 Regular Report*, (Brussels, European Commission, 8 November 2003), p 80.

⁶⁰ Interviews with MFA officials, 17 June 2003.

February 2003, NATO's Secretary General Lord Robertson discussed "areas in which Bulgaria still needed to make progress, such as control over arms exports."⁶¹

The US continues to put pressure on the Bulgarian government and demands stricter arms export controls.⁶² The Clinton Administration led a sustained campaign against the notorious Russian based arms dealer, Victor Bout, who was implicated in brokering Bulgarian arms to UNITA. An investigation by the weekly newspaper *Capital* uncovered that in 1996 Victor Bout had visited Arsenal, VMZ, Samel-90, and Beta Cherven-Briag.⁶³

2.2. EVOLUTION OF THE EXPORT CONTROL SYSTEM

The current Bulgarian export control system was established in 1995–1996 with the 1995 enactment of the Law on the Control of Foreign Trade Activity in Arms and in Dual-Use Goods and Technologies (LCFTADGT). In 1996, Bulgaria acceded to the Wassenaar Arrangement controlling exports of weapons and sensitive technology to countries of concern.

Bulgaria formally aligned itself to the EU Code of Conduct on Arms Exports on 3 August 1998 and committed itself to abide by all guidelines, decisions and positions related to arms transfers taken by the EU. In December 1998, Bulgaria made a political commitment to the EU Joint Action on SALW⁶⁴ and in November 2000 it signed the OSCE Document on SALW.⁶⁵ Bulgaria is also a member of the Australian Group and the Group of Nuclear Suppliers, and applies in full the rules of the Missile Technologies Control Regime.

Following the recommendations of the European Commission, in July 2002 the National Assembly passed major amendments to the LCFTADGT. A new Regulation on the Implementation of the law was also adopted.⁶⁶

Scope of the LCFTADGT

The LCFTADGT excludes from its scope the control of arms or ammunition belonging to the Bulgarian Armed Forces and foreign army and police contingents passing through and during their stay on the territory of Bulgaria for peacekeeping and humanitarian operations, training or competitions.⁶⁷ These transfers are exempt from licensing because they are initiated under the jurisdiction of international law and are subject to ratification by the National Assembly.

⁶¹ NATO Press Release, *Lord Robertson Visits Bulgaria*, (Brussels, NATO, 17 February 2003).

⁶² Interviews with Bulgarian government officials, 17 September 2003.

⁶³ Alexandrova G *et al*, 'How an International Arms Dealer Involved Bulgaria in Arms Smuggling: Victor Bout's Brother Owns a Company in Bulgaria and a Network of Brokers', [in Bulgarian] *Capital*, 2 March 2001.

⁶⁴ EU Joint Action of 17 December 1998 on the EU's contribution to combating the destabilizing accumulation and spread of small arms and light weapons (1999/34/CFSP).

⁶⁵ FSC.DOC/1/00, 24 November 2000.

⁶⁶ When the amendments to the Law were being discussed, a suggestion was made to change the structure of the export control system by establishing a State Commission within the Council of Ministers that would exert control over arms exports. The government and the opposition did not agree on its format and it was decided that the amendments would be enacted before the NATO Summit in Prague without creating a State Commission.

⁶⁷ LCFTADGT, SG No. 75/2002, Art 1.

The export control system applies to all types of weapons in the export control regime lists. These lists include all arms and dual-use goods and technologies (ADUGT) that are part of the unified and annually updated EU List.⁶⁸ In compliance with the policy of EU member states, a catch-all clause is applied providing for the control of non-listed dual-use goods and technologies.⁶⁹

2.3. STRUCTURE OF THE EXPORT CONTROL SYSTEM

Bulgaria's export control system consists of a system of laws, regulations, administrative procedures and enforcement institutions and mechanisms designed to achieve the following four objectives:

- Observance of Bulgaria's international obligations;
- Control over the manufacture, storage, transfer and possession of ADUGT;
- Prevention, combat and eradication of illicit manufacturing and transfer of SALW;
- Providing a favorable economic climate for the defense industry.

The control system has a three-level structure (see Chart 1):

(1) Companies are first required to obtain a license to trade in arms and dual-use goods and technologies. This license is issued by the Interdepartmental Council on the Issues of Military Industrial Complex and Mobilization Preparedness of the Country (the Council) within the Council of Ministers.

(2) Once a company has the trading license, it needs to obtain a permit for every single transaction that entails export, import, transit, and re-export of arms or dual-use goods. The permit is issued by the Interdepartmental Commission on Export Control and Non-Proliferation of Weapons of Mass Destruction (the Commission) within the Ministry of Economy.

(3) The company is subject to a number of additional controls and permits that include:

- A permit from the Control of Hazardous Devices Office of the National Police Service.
- Inspection by the Customs Agency and National Security Service at specific border crossings.
- Monitoring by the intelligence agencies within the MoI and the MoD.
- Monitoring of the export by the export control specialist within each licensed company.

⁶⁸ Bulgaria has brought its list of dual-use goods in accordance with the EU List: European Union, 'Council Regulation (EC) No 149/2003 of 27 January 2003', *EU Official Journal*, L30/1 (5 February 2003).

⁶⁹ LCFTADGT, Art 13.

- The cargo shipping company also needs to be licensed by the Interdepartmental Council to transport arms to and from the territory of Bulgaria.
- Defense and arms trade companies under the MoD are obliged to obtain personal approval for all transactions from the Minister of Defense.

The stringent implementation of such a system of arms export controls is a task requiring significant administrative and financial resources, in addition to skilled and experienced personnel. The low pay in the government administration and the lack of personnel development policies in most government departments often result in a brain drain towards the private sector. This is one of the greatest challenges for the relevant institutions. It takes years to create an expert in export control. When such an expert departs it is difficult to find a skilled and experienced replacement. Most of the relevant institutions lack sufficient administrative capacity in terms of the number of staff, their qualifications and skills (professional, linguistic, etc) and the overall unit structure. When the limited financial resources of state institutions are added to the picture, it becomes clear that the application of the highest standards in this field is not an easy task.

Controls on arms trade companies and brokers⁷⁰

All companies that import and export arms, those that *export* (but not import) dual-use goods and technologies (DUGT), those that ship arms, and brokers trading in ADUGT need to obtain licenses from the Interdepartmental Council. At the first level, the control concerns the reliability and solvency of the licensed agents⁷¹.

To grant the license the Council checks the reliability of the company by examining:

- The reliability of storage facilities for ADUGT;
- The adequacy of organizational mechanisms for protecting classified information;⁷²
- Compliance of foreign companies with the laws of the country of their registration.⁷³

The Ministries of Economy, Defense, Interior, Foreign Affairs, Finance and Justice combine to co-ordinate the assessment of the reliability and solvency of the license applicants, including foreign companies. The main advantage of this procedure is that preliminary control and licensing of all dealers, shippers and brokers is carried out even before the preparation for a specific transaction begins.

A growing number of private brokers conduct transfers and play a crucial part in determining the amount of arms legally exported. One of the most significant developments in the amended law was the introduction of controls on brokering

⁷⁰ See Appendix 3 for a list of licensed companies and brokers

⁷¹ LCFTADGT, Art 6.

⁷² No mechanism has been specified to determine what constitutes classified information.

⁷³ Zakov D, Ivanov L, *Strengthening of the Arms Export Control System in the Context of Bulgaria's Membership of NATO* (Sofia, NATO Information Centre Sofia, September 2003), p 7.

activities. The introduction of the Law revealed that most brokers that had to be licensed were registered abroad, particularly in offshore zones. Such zones, in addition to being tax havens, often have lax legal environments. The Law, thus, allows the law-enforcement agencies to seek and obtain information about the owners of off-shore companies before granting licenses.

Article 53 (2) of the Regulation of the LCFTADGT covers the licensing of foreign individuals or legal entities engaged in brokerage. Currently, a document, issued by the relevant authority in the applicant's country of registration must be submitted to the Council to confirm the applicant's right to conduct arms brokerage under the applicable national legislation. One difficulty here is that under some countries' legislation, such as that of the US, the UK, Israel, or Cyprus, companies registered in offshore zones are not required to obtain an arms brokerage license in the country of residence. Brokers operating from these countries sometimes submit to the Council documents which present them, for instance, as US or UK brokers, without revealing that their primary operations are in offshore zones. As the UK or US government cannot provide the Council with information clarifying the real status of these brokers, the result is that the Council is misled. The practice so far shows that the Bulgarian authorities, in implementing arms controls, are not able to establish clearly whether foreign licensees are solvent and free from liabilities.

Another problem relates to the penalties applied to illicit brokering activities. The current provisions of the Penal Code on violation and evasion of the control measures are not sufficient. Following Article 51 of the Regulation on Implementation of the LCFTADGT,⁷⁴ additional provisions could be added to the Penal Code penalizing the illegal brokering of arms (Article 237) or of dual-use goods and technologies (Article 337) between third parties in violation of international law. Currently such activities are not criminalized, although the National Assembly is considering a draft amendment to the Penal Code.

Companies in Bulgaria importing dual-use goods and technologies are exempt from licensing. However, they need to obtain permits for individual import transactions. The license exemption aims to provide at least some degree of freedom for companies using such products, as well as a general stimulus to the country's economy.

The LCFTADGT also amended the length of the trading license. The new law stipulates that such trading licenses are initially issued for one year and then extended for three more years. Currently, transaction permits are valid for six months and can be extended only once, for an additional six months.⁷⁵

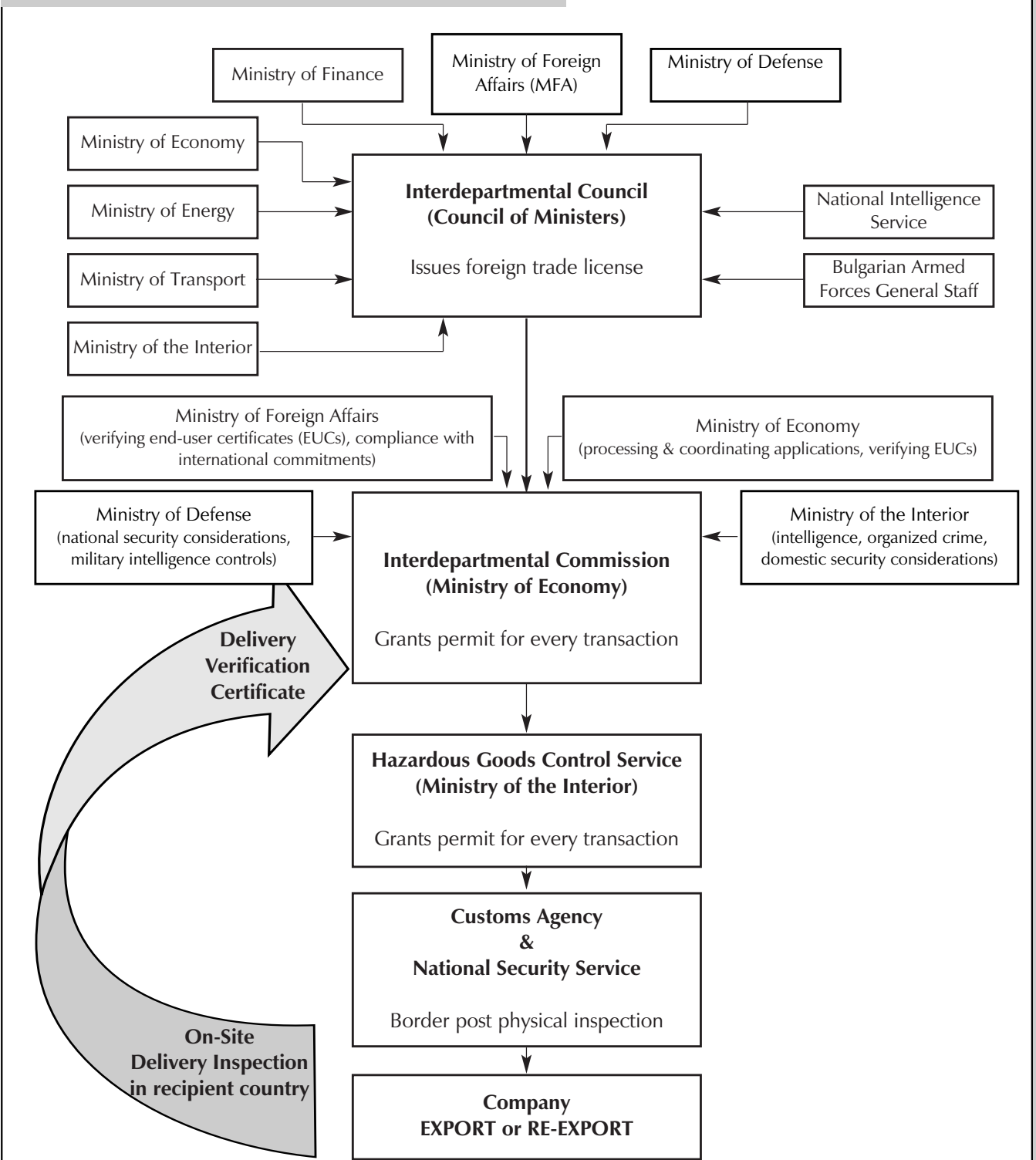
Issuing permits for individual transactions

At the second level, companies and brokers have to receive a permit from the Commission for each relevant transaction. A permit is required for imports, exports, or transits of ADUGT. All specific elements of the transaction are examined to ensure the implementation of the law. These include the validity of presented documents, the type of goods, the broker, the shipper, the end-user, political considerations, the

⁷⁴ Regulation on Implementation of the LCFTADGT, SG 115/2002, (see Appendix 6).

⁷⁵ LCFTADGT, Art 4 §4

Chart 1. Institutional System for Arms Export Control



This chart is based on a chart in Ministry of Foreign Affairs and NATO Information Center, *Strengthening of the Arms Export Control System in the Context of Bulgaria's Membership in NATO*, Sofia: 2003, p11

impact on regional peace and security, notified denials from members of the EU or the Wassenaar Arrangement, and Bulgaria's international obligations and interests.⁷⁶ If required, the Commission may solicit the opinion of experts from other institutions, especially to determine or analyze dual-use goods and technologies. In 2002 the Commission refused to grant permits for over 20 arms and dual-use good transactions, probably directed to countries of concern.⁷⁷

End-use(r) control

Stringent control over the declared end-user is of crucial importance when authorizing an export transaction. The main ways for arms to circumvent the law and reach proscribed end-users is by using false documentation, or through the unauthorized re-transfer of legally acquired arms. The 2002 amendments to the Law included new provisions to improve identification of end-users. Every transaction requires end-use(r) certificates. The exporting company or broker needs to provide a certificate that the end-user has obtained from its own national authorities. This certificate is verified by the Ministry of Economy (in consultation with the recipient country's import control authorities), the MFA (through diplomatic means), and the Mol and the MoD. The end-use(r) could be changed only with the agreement of the Commission.⁷⁸ The same applies if the end-user changes its broker.⁷⁹

Control on the origin of goods

The companies importing, re-exporting, or transiting goods are required to submit evidence to the Commission of the origin of the goods. These documents are examined by the Ministry of Economy, the MFA, the Mol and the MoD.

Control over the parties to the transaction

Table 2. Permits Issued or Denied by the Commission

	2001	2002	2003 ⁸⁰
Export Permits	178	282	248
Import Permits	296	135	169
Denied Permits	6	7	N/A

All companies that are parties to the export, import, re-export, or transiting transactions need to submit a number of documents to the Commission, so that the above mentioned ministries may examine them and verify the legitimacy of all such companies and their personnel.

Source: Interdepartmental Commission on Export Control and Non-Proliferation of Weapons of Mass Destruction

⁷⁶ Zakov D, Ivanov L, *op cit*, p 8.

⁷⁷ 'Interview with the Commission's Secretary,' [in Bulgarian] *Banker*, 23 November 2002.

⁷⁸ LCFTADGT, Art 15.

⁷⁹ *Ibid*, Art 14.

⁸⁰ The data for 2003 is as of 13 October 2003.

Transit shipments

In Bulgaria transit shipments of arms are also subject to regulation. Each shipment passing through Bulgaria's territory needs an authorization by the Commission. The company or the broker must provide the Commission with export permits from the country exporting the arms, as well as permits for the import and further transit of the arms. The Commission has only ten days to check the validity of the presented documents and to provide an answer to the applicant.⁸¹

Additional control mechanisms

The export control system provides for an additional three sub-levels of control. Firstly, the Commission has issued a decree⁸² requiring the licensed companies to establish an internal control system to ensure compliance with the law. Designated employees will be responsible for each transaction's compliance with the export control regime. They must be members of the management boards, owners or partners. This is to counteract the practice of appointing short-term officeholders whose lack of experience could be used as an excuse for illegal transactions, or who could become the scapegoat when a crime is detected. Secondly, upon obtaining the arms export permit, the exporting company must obtain a permit from the Control of Hazardous Devices Office (CHDO) within the National Police Directorate. Thirdly, the cargo can only be transported through shipping companies licensed by the Council to transport arms to and from the territory of Bulgaria.⁸³

A new 'Tracker'⁸⁴ system, facilitating the government's work in issuing licenses and permits is already fully operational. The system, which complies with the requirements of classified information laws, has contributed to a more modern and effective arms export control system. Currently a register of licensed brokers is being prepared for the Council's approval. It will be updated on a quarterly basis or at the first session of the Council thereafter, as appropriate. The government is preparing to train customs officers in order to improve the capacity of the customs authorities to intercept illegal exports and imports of ADUGT. Special customs checkpoints and border posts have been designated for customs clearance of ADUGT.

Other considerations

When reviewing the applications of licensed companies to export arms, the competent Bulgarian institutions must consider the sanctions imposed by the resolutions of the UN Security Council, the decisions of the EU, OSCE, the Wassenaar Arrangement and other multilateral and regional instruments for non-proliferation

⁸¹ Regulation on Implementation of the LCFTADGT (SG 102/95), Art 30b.

⁸² The exact number of the decree and its text are classified.

⁸³ *Ibid*, Art 30a.

⁸⁴ "The 'Tracker' Export Control Information System is a generic export control communication and information network software package designed to assist a government export control agency and other relevant ministries in making licensing decisions on dual-use and arms exports. The system can be customized to fit the export control needs of a given country, creating the framework for links among relevant ministries within recipient countries and also enable officials in one state to directly consult with experts in other states." Nonproliferation and Disarmament Fund <<http://www.ndf.org/html/projects/096.html>> , 25 September 2003.

and export control. (See Appendix 3 for a list of Bulgaria's commitments). In April 2001, the Council of Ministers approved a list of countries and organizations towards which Bulgaria applies prohibitions or restrictions on the sale and supply of arms and related equipment in accordance with resolutions and decisions adopted by the UNSC, the EU and the OSCE.⁸⁵ Since its adoption, the List has been updated twice, the second time in the spring of 2003. (See Appendix 4 for the latest List)

When the Commission considers applications, or when Customs authorities inspect goods at the borders, they are supposed to refer to an extensive list of ADUGT. The checklist of ADUGT used by Bulgarian authorities includes the lists of the Wassenaar Arrangement and, as stated above, the EU List of ADUGT.

In addition, money laundering legislation provides that, alongside another 20 institutions, organizations, companies, and government authorities, the arms dealers should collect, store and disclose information on transactions that exceed 30,000 leva (€15,000) and identify all private individuals or legal entities involved. They should also identify the persons with whom they establish permanent commercial relations.⁸⁶

Along with the development of the legal basis for arms export controls and the structures responsible for their implementation and enforcement, Bulgaria is trying to strengthen awareness of the regulatory framework amongst producers and exporters of defense goods. The government has undertaken to organize regular workshops to inform and educate licensed companies on arms export control issues and the implementation of the law. Greater awareness of export control measures will help companies plan their activities and avoid situations where a company will engage in negotiations with potential customers only to realize at a later stage that the deal would be in breach of the national export control system and could not be authorized.

The government has announced plans to maintain a list of the companies, persons and brokers of concern or who have violated the export control regime, and to hold regular meetings in which the representatives of law enforcement agencies and investigative bodies can exchange information on violations of the arms export control system.

Control over the execution of the transaction

The LCFTADGT stipulates that control over the implementation of the law falls upon the Council, the Commission, the Ministry of the Economy, the Mol and the Customs Agency (which is part of the Ministry of Finance). At this level, the main emphasis is on the physical control of goods throughout the various phases of the export transaction, from Bulgaria's border crossings to the final destination. The first responsibility falls on the customs authorities at border posts. As regards control on deliveries to the intended end-user, the Commission requires a certificate to confirm that each delivery has taken place. The certificate is issued by the respective authority of the end-user country. When deemed necessary, the Commission is authorized to do on-the-spot delivery verifications in the end-user country.⁸⁷ Although they have taken place in the past, such

⁸⁵ List of countries and organizations towards which the Republic of Bulgaria applies prohibitions or restrictions on the sale and supply of arms and related equipment in accordance with UNSC resolutions and decisions of the EU and the OSCE, SG 37/2001.

⁸⁶ Art 3 §2.25, Measures Against Money Laundering Law, SG 1/2001

⁸⁷ LCFTADGT, Art 17.7.

inspections are rarely carried out as resources are quite limited. No specific ministry is responsible for these inspections. Responsibility is instead decided on *ad hoc* basis.⁸⁸

In implementing this level of control, the above-mentioned controlling institutions have the right to request from companies all necessary information that could help in exercising adequate export control. They can also do on-site inspections at the customs areas, seek the expert opinion of other state bodies and request information from relevant authorities in other countries.⁸⁹

2.4. SPECIFIC ROLES OF THE CONTROLLING BODIES

The Interdepartmental Council

The Interdepartmental Council was set up in 1993. Besides being a licensing body, it designs and implements the state's policy on manufacturing and trading in arms and dual-use goods. The Council is responsible for the mobilization preparedness of the country.⁹⁰ In this role it co-ordinates the management of mobilization reserves, and determines the level of preparedness of companies to convert to military production in case of mobilization. The Council carries out the following specific activities in controlling trade in ADUGT:

- Issuing licenses for manufacture and export of ADUGT.
- Maintaining a register of persons licensed to conduct foreign trade and transport arms.
- Acting as arbiter in those circumstances where consensus on an export permit application cannot be reached within the Commission and the case is referred to the Council.
- Coordinating nominations of members to the management and control authorities in the state-owned arms manufacturing and trading companies and submitting to the Council of Ministers recommendations for the restructuring of such companies.
- Advising on the inclusion of new products in the List of ADUGT.
- Advising on issues related to Bulgaria's membership of the Wassenaar Arrangement, the OSCE, the Nuclear Suppliers Group, as well as to its commitments within the Australian Group, and, among other control regimes, the Missile Technologies Control Regime.

The Council is chaired by the Deputy Prime Minister and Minister of Economy. Its members are the Deputy Ministers of Economy, Foreign Affairs, Defense, Finance, Interior, Transport and Telecommunications, Regional Development and Public Works, and Energy, as well as the Director of the National Intelligence Service and the Deputy of the General Staff of the Bulgarian Armed Forces. The Secretary of the

⁸⁸ Interviews with government officials, 10 October 2002.

⁸⁹ LCFTADGT, Art 17.3.

⁹⁰ Council of Ministers, Decree No.193 of 12 October 1993, SG 89/1993.

Council is appointed by the Prime Minister and is responsible for supervising the implementation of its decisions. Although the Council once employed a staff of around 20 people, nowadays it employs only three civil administrators.

The Interdepartmental Commission

The Commission is the most important body in the arms-export control structure. It is chaired by the Minister of Economy and includes two representatives from the Ministry of Economy, two representatives from the MoD, and one representative each from the MoI and the MFA. A fundamental principle of the Commission is to make all decisions by consensus.⁹¹

The main responsibility of the Commission, based at the Ministry of Economy, is to issue permits for: (a) exports and imports of arms; (b) exports of dual-use goods; (c) transit shipments of arms; and (d) transit of radioactive, explosive, flammable, oxidizing, corrosive, bacteriological (biological), toxic and pathogenic goods. It also provides for overall control of the implementation of the LCFTADGT.⁹²

The actual work of the Commission – the processing of the permit applications – is carried out by the Military-Economic Co-operation and International Trade Control Directorate, which is part of the Ministry of Economy. In addition to supporting the Commission's work, this directorate is responsible for formulating the government's policies on the development of Bulgaria's defense industry and arms trade. The ten-person staff of this directorate is comprised of defense industry experts, some of whom are former defense industry employees. Experts from the other ministries (MoI, MFA, MoD) come on a regular basis to the Ministry of Economy to examine the applications and form the opinion of their institution. The Commission meets about twice a month to review the applications.

The person with most discretionary power in the Commission is the Secretary, who simultaneously heads the Military-Economic Co-operation and International Trade Control Directorate.⁹³ Unlike other Commission members, the Secretary knows the details of most permit applications. The Secretary could choose to present a transaction application to the other Commission members in a way that strongly influences their opinion. This subjective element in the decision-making process introduces a danger that pressures could be placed on the Secretary to act in a corrupt way.⁹⁴ Moreover, it is at the Secretary's discretion to decide whether to present a submitted application to the Commission for consideration. Although the reasons not to present an application could be perfectly legitimate (such as extensive probing into

⁹¹ Art 66, § 2 of the Regulation on Implementation of the Law on Control of the Foreign Trade in Arms and Dual-Use Goods and Technologies, (SG 102/95).

⁹² *Ibid*, Art 57.

⁹³ Art 40a, Ministry of Economy Regulatory Act. (SG 33/2003). In an interview soon after assuming his post, the current Commission Secretary Vladimir Velichkov declared that in his other capacity, as leading the International Trade Control Directorate at the Ministry of the Economy, he is working hard to "stimulate the export of special production". ('Vladimir Velichkov: The Politics of the Union of Democratic Forces Put the Defense Industry on its Knees,' [in Bulgarian] *Sega*, 12 October 2003.) Two years later, he was able to announce that the number of export permits for 2002 was almost double the 2001 figure. ('Vladimir Velichkov, Secretary of the Export Control Commission: "SDS Sold *Beta* in an Insane Manner,'" [in Bulgarian] *Trud*, 19 October 2003.)

the authenticity of an end-user certificate), again such a system leaves room for corruption to emerge from competing business interests.

The Ministry of Economy has majority stakes in the biggest arms trade company, Kintex, in Teraton, a smaller arms broker, and in arms-producers VMZ, Dunarit, and NITI. In addition, the Ministry has minority shares in most other defense companies (See Appendix 2). The Ministry appoints the boards of the companies where it has majority stakes, and has representatives on the boards of the companies where it has minority stakes. In the past, members of the Commission have been known to be on defense company boards. The Ministry of Economy is simultaneously an owner of defense companies and a regulator of their exports. Structurally, this creates a conflict of interests. In the recommendations section, this report outlines some advantages that would follow from establishing an independent regulatory body.

The Mol

The Mol and four of its agencies (the National Security Service, the National Police Service, the National Service for Combating Organised Crime and the National Border Police Service) are also involved in enforcing arms controls. These bodies participate in co-ordination activities on licensing exporters, pre-transaction investigation, transaction monitoring and follow-up control. Representatives of the Mol visit the Commission's 'secretariat' at the Ministry of Economy on a regular basis to familiarize themselves with the permit applications.

National Police Service

After the Commission has granted an export permit companies must obtain additional permits from the National Police Service's Control of Hazardous Devices Office (CHDO).⁹⁵ The controlling activities of the National Police Service are established in the Law on Control of Explosives, Firearms and Ammunitions.⁹⁶ In its export-control role the CHDO examines end-user certificates so that arms are not exported to embargoed destinations or countries of concern. To receive the CHDO permit the exporting companies need to submit documents specifying the type and quantity of ADUGT produced for export, the country of origin/destination, the border post where the export or import will take place, the identification numbers of the individuals carrying out the transaction and the details of the security arrangements for the transportation of the materiel. At the border, the goods are checked by the National Border Police Service, while Customs Agency officers fill out the control slip of the police permit and with it notify the Police Directorate that the export has taken place.

⁹⁴ In April 2002, the newspaper *Banker* published an investigation explaining that Velichkov's spouse had been working for *Terem Engineering*, an arms trade company, owned by the sons of a former *Kintex* director. The newspaper reported that the company was known to have been favored by the Commission when applying for export permits. 'The Export Permit from Us, the Gratitude in "Green" from You,' [in Bulgarian] *Banker*, 13 April 2002.

⁹⁵ Regulation on Implementation of the Law on Control of Explosives, Firearms and Ammunitions, (SG 1/2002) Art 61, § 1.

⁹⁶ According to Art 1, § 2 of the Law on the Control of Explosives, Firearms and Ammunitions (SG 99/2002), the Law does not regulate the activities of the Mol or the Armed Forces.

In its role of controlling SALW domestically the CHDO also issues end-user certificates for arms purchased by the MoI or to dealers importing firearms and ammunition for civilian purposes. In addition, it issues permits for all imports, domestic production, transiting, usage, testing, and storage. CHDO is also in charge of the storage and destruction of illegal SALW that have been confiscated. There are no known cases of large-scale arms destruction by CHDO. Instead, in January 2003, the MoI decided to auction 1350 confiscated SALW.⁹⁷ Such actions contradict Bulgaria's commitment under the UN's Program of Action that calls for the destruction of all confiscated weapons.⁹⁸ Likewise, the OSCE Document on SALW stipulates that all surpluses are, by preference, to be destroyed.⁹⁹ The government has not reported violations of the Law on the Control of Explosives, Firearms and Ammunitions by companies trading with registered entities.

National Security Service

The MoI's National Security Service (NSS) has a leading role in the preliminary inspections of the preparation of transactions in arms and prospective dual-use goods and technologies. Its primary objectives are to prevent the acquisition of arms by embargoed countries or terrorist organizations as well as to prevent illicit international arms trade that constitutes a threat to national security. To achieve this, the NSS conducts counterintelligence, surveillance, detection, and counteraction.

National Service for Combating Organised Crime

The National Service for Combating Organised Crime (NSCOC) is the agency involved in implementing arms controls in the country. Although NSCOC does not exercise control over exports it advises the Council on the approval of export license applications. Its main role is to uncover and neutralize local and transnational criminal structures involved in arms trafficking and operating on the territory of the country. The Smuggling in Weapons, Hazardous Materials and Proliferation unit within the NSCOC is responsible for gathering criminal intelligence information.¹⁰⁰ The unit is also expected to co-ordinate the activities of the regional units for combating organized crime and is engaged in direct operational police co-operation at the international level. Experts believe that the unit's lack of sufficient human resources hampers its effective operational capacity.¹⁰¹

Structurally, the Ministry of the Interior also faces issues of conflict of interest. Its company, *Contactless Multiplexing Systems* is involved in the small arms trade. In this regard, concerns may be raised that the neutrality that is required from the MoI in issuing permits for particular transactions is under threat.

⁹⁷ Kotzev N, 'The Police Sell Guns by the Kilo,' [in Bulgarian] *168 Chasa*, 31 January 2003.

⁹⁸ UN Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects (UN Document A/CONF.192/15), Section II-16.

⁹⁹ OSCE Document on Small Arms and Light Weapons, 24 November 2000.

¹⁰⁰ Interview with MoI officials, 15 July 2003.

¹⁰¹ *Ibid.*

The Customs Agency

Arms export controls at the borders are mainly the responsibility of the Customs Agency, part of the Ministry of Finance.¹⁰² The Agency recently identified 23 particular customs posts through which ADUGT can be imported or exported. The preparation of Customs documents can be performed only at 16 specific customs posts.¹⁰³ The exporting company or a broker needs to present to the Customs officers all necessary export permits and licenses. Based on the customs declarations, the Customs Agency's Central Customs Headquarters maintains data files of all ADUGT exports. During the first half of 2003 the Agency had conducted five training courses and seminars for customs officers aiming to update its staff's knowledge of export controls on ADUGT.¹⁰⁴ The Customs Agency conducts follow-up control on ADUGT goods when they arrive at the Bulgarian border through its customs offices and officers at the border checkpoints.

The MoD

The MoD became more actively involved in regulating arms trading after it was revealed in October 2002 that *Terem*, a state-owned company with a trading license, which is accountable to the Ministry and monitored by the Deputy Minister of Defense, was caught violating export controls (See Box 1 on page 47). As a result of this latest scandal, the Minister of Defense ordered that every foreign export transaction of an MoD defense company would need his personal approval. Due to the low volume of export transactions, this measure provides an additional level of export control.

The MoD companies were required to keep a register of all deals and report weekly to the Minister of Defense for approval. The MoD was planning to organize a training course for the marketing departments of its firms to inform and educate them on the relevant national legislation on foreign trade in ADUGT and on the international control regimes. The MoD has also stated its intent to appoint export control specialists in all of its manufacturing and trading companies.¹⁰⁵

The Military Police and Military Counterintelligence Security Service at the MoD have the task of countering threats to the MoD's integrity and to national security. In particular, it prevents and counters illegal activities of military personnel, including involvement in arms theft, illicit arms trading, illicit manufacturing and distribution of hazardous devices, weapons of mass destruction or strategic raw materials.¹⁰⁶

Two members of the MoD also participate in the Interdepartmental Commission. Structurally, this could represent a conflict of interest because the MoD controls *Terem*

¹⁰² At the Agency's headquarters, it is the Customs Intelligence and Investigation Directorate and its Arms and Dual-Use Goods Unit that are responsible for coordinating the Agency's arms export control activities. (Tolev, D, 'Customs' Role in Preventing Illicit Arms Trafficking', [in Bulgarian] speech at the International Conference *Contemporary Control over Arms Exports in the Process of Bulgaria's NATO Accession* (Sofia, 9 September 2003).

¹⁰³ Decree no 51/15.04.2003 of the Director of the Customs Agency at the Ministry of Finance, first published SG 39/25.04.2003, amended SG 70/08.08.2003

¹⁰⁴ Tolev, op cit.

¹⁰⁵ Interviews with MoD officials, July 2003.

¹⁰⁶ Defense and Armed Forces Law, last amended SG 119/2002, Art 40.

and *Procurement & Trade* (responsible for selling MoD surpluses). In reality though, no specific cases have been detected where MoD company interests have taken precedence over export controls.

2.5. OVERSIGHT MECHANISMS AND TRANSPARENCY

In the past ten years, the international community has made important steps to introduce more transparency in the arms trade as a means of developing governmental accountability through the demonstration of compliance with laws, regulations and political commitments. Regional agreements, such as the EU Code of Conduct, have played an important role in preparing a favorable ground for countries to become more open and transparent with regard to the implementation of national arms controls. Currently, almost all EU member states publish annual reports on their arms exports, which include information on arms transfers and/or licensed transactions. The adoption of the OSCE Document on SALW has also contributed to greater information exchange. The Document requires that every year all participant states notify one another of their SALW transfers within the OSCE region.

As a member of the OSCE¹⁰⁷ and an EU and NATO applicant, Bulgaria, whose arms trade was veiled in complete secrecy until ten years ago, was obliged to participate in this process. Since 1993, Bulgaria has provided information on arms exports to the UN Register of Conventional Arms. Currently, Bulgaria submits annual notifications of SALW transfers to the OSCE, and the Council and the Commission are due to start submitting annual reports on arms transfers to the National Assembly. However, these reports will not be made public, and so far there has been little evidence of any parliamentary oversight of the arms export control system, with the possible exception of the public debate on the July 2002 amendments to the LCFTADGT and the Foreign Affairs Committee's hearings on the illegal exports from the Terem factory in October 2002 (see the section on 'Illicit arms exports from Bulgaria' below). These arose mostly as a result of media pressure.

Even today the old 'secrecy mentality' is hard to erase, a well-known problem in all countries in transition. Under current secrecy laws, commercial arms trade information, including types and quantities of the equipment exported and final recipients, is considered confidential and is not available to the public. The Bulgarian arms export control field is too opaque, which creates favorable conditions for "grey" and "black" exports. Transparency and openness are democratic tools which are important in that they enable debate on public expenditure informed by well researched analysis and high-level political discussion. Likewise, a good level of transparency is required by the defense industry policy establishment. When information concerning the state of the defense industry and policy guidelines are not available, or remain unclear, the industry cannot be expected to develop in an optimal way.

Notwithstanding the progress achieved in publicizing the export control system and the introduction of reporting mechanisms, such as those of the UN and the OSCE, public transparency and accountability remain limited. Under the Law for Access to the Documents of the Former State Security and Former Intelligence Agency of the

¹⁰⁷ Bulgaria has assumed the chairmanship of the organization for 2004.

General Staff,¹⁰⁸ which was repealed in 2002 by the Law on Protection of Classified Information,¹⁰⁹ it was possible for information on illicit arms trading to be declassified. The Law for Access provided for a special committee which, in co-ordination with the directors of the National Intelligence Service, the National Security Service, the Military Information Service and the Military Counterintelligence Service, could decide to declassify documents containing data on the establishment of companies abroad by the former State Security and the former Military Intelligence, export of capital, illicit trade in arms and narcotics.¹¹⁰ Unfortunately, the brevity of the Law's existence did not allow the committee enough time to complete its investigations. No information was ever made public on the issue of illegal arms exports.

The new Law on Protection of Classified Information clearly classifies as a matter of state secret "summarized information regarding special production¹¹¹ of the defense industry, as well as forecasts about development, plans, production capacities, scientific and research units involved in fulfilling production orders for armaments, combat equipment, ammunition, and military equipment."¹¹² In addition, the law classifies "summarized information about the export and import of armament, combat equipment, and ammunition for the needs of the Bulgarian Armed Forces."¹¹³

A culture of secrecy continues to be prevalent among those involved in controlling the arms trade. There is little knowledge among policy makers, civil society, and even defense industry specialists about the reporting activities and the transparency records of other countries. Few are aware of the fact that at least 19 countries currently produce public annual reports on their arms exports.¹¹⁴ Some of the biggest arms-producing (and most business-conscious) countries in the world, such as the US and UK, reveal the destination, value, and type of products exported by their defense industries. Ironically, these reports reveal Bulgaria's imports from the US and the UK, which is considered classified information in Bulgaria.¹¹⁵

¹⁰⁸SG 69/1997, repealed SG 45/2002.

¹⁰⁹SG 45/2002, last amended SG 31/2003.

¹¹⁰Law for Access to the Documents of the Former State Security and Former Intelligence Agency of the General Staff, SG 69/1997, Art 9a, §2, repealed SG 45/2002.

¹¹¹"Special production" is a term used in Bulgarian to denote any type of arms and dual-use goods and technologies.

¹¹²Law on Protection of Classified Information, SG 45/2002, last amended SG 31/2003, Art 25, Addendum 1, §1.18

¹¹³*Ibid*, Art 25, Addendum 1, §1.22.

¹¹⁴Haug M, Langvandslien M, Lumpe L, Nicholas M, *Shining a Light on Small Arms Exports: The Record of State Transparency: Occasional Paper No 4*, (Geneva/Oslo, Small Arms Survey/Norwegian Initiative on Small Arms Transfers, January 2002).

¹¹⁵The 2002 US report, known as Section 655 Report 2002 is available at

< http://www.pmdtc.org/docs/rpt655_2002.pdf > .

The 2002 UK report, Strategic Export Controls Report 2002, is available at

< <http://www.fco.gov.uk/Files/kfile/Cm5819%20Full%20report.pdf> > , accessed on 3 October 2003.

3. COMBATING THE ILLICIT ARMS TRADE

3.1. ILLICIT ARMS EXPORTS FROM BULGARIA

During 2002–2003 two illegal arms exports scandals are known to have been under investigation. Neither of them involved SALW. The two cases are summarized in Box 1. Media reports focused mostly on lawsuits in other countries that had a Bulgarian connection. The Colombian press reported the arrest of two Colombian officers who allegedly smuggled 7640 5.56 mm AK-47s purchased in 1999 from Arsenal.¹¹⁶ The Bulgarian authorities denied having any knowledge about the transaction. In January 2003, a report in the US daily *Saint Louis Today*, quoting the testimony of a US arms dealer who declared that he had exported Kalashnikov assault rifles from Bulgaria using false end-user certificates, was also repudiated by the Bulgarian authorities.¹¹⁷ In June the Italian weekly *Panorama* published an investigation claiming that Bulgaria was part of an illegal trafficking channel to Angola, Chad, Rwanda, Syria, and the Democratic Republic of Congo (DRC).¹¹⁸ In October 2003 Amnesty International also reported that SALW ammunition which may have come from Bulgaria was seen in late 2001 in fighting around Kisangani in the DRC.¹¹⁹

Box 1. The Cases of Terem and Beta

The Terem Case

In October 2002, the Targovishte branch of Terem EAD, a state-owned arms production and repair company, signed a contract with Rodeo Investments, a company registered in the US, for the export of 60 tractor gearboxes to Syria. As became clear in the following months, the intended final destination was Iraq, the gearboxes were for armored personnel carriers, and the total contract was for 250 gearboxes. This illicit export was foiled on 11 November by Bulgarian Customs, only after 105 gearboxes had been delivered to Syria. The police investigation uncovered that the export channel involving Terem had been operating for about six years, and also included the export of 50 tank engines to Syria.¹²⁰ At the end of January 2003 Mehmed Dzhafer, the Deputy Minister of Defense, who was on Terem's board of directors, resigned from office only to become advisor to Defense Minister Svinarov's and the Prime Minister just a few months later.¹²¹

The Beta-Cherven Briag Case

In October 2003 the current and former CEOs of the privately owned Beta-Cherven Briag were briefly detained and charged with illegal exports of parts for the 122 mm Gvozdika self-propelled howitzer to Sudan. The unlicensed broker from RIK Co was also arrested. Between 22 and 29 November 2001, seven months after the Bulgarian government had joined the EU embargo against Sudan, Beta and RIK continued with the execution of an old contract, under which Beta had legally delivered 18 howitzers to Sudan in the preceding years. The parts for the howitzers were labeled as parts for road-building equipment. The three individuals were also charged with the embezzlement of close to € 400,000 from Beta.

¹¹⁶ 'Involvement in Arms Trade in Colombia,' [in Bulgarian] *Sega*, 23 January 2003.

¹¹⁷ 'Convicted Trafficker Involves Kintex in Illegal Arms Import in the US,' [in Bulgarian] *Dnevnik*, 6 January 2003.

¹¹⁸ 'Bulgaria Blamed Again about Arms Trade to Embargoed Countries,' [in Bulgarian] *24 Chasa*, 24 June 2003.

¹¹⁹ Hiller D, Wood B, *Shattered Lives: the Case for Tough International Controls* (London/Oxford, Amnesty International/Oxfam, 2003), p 10.

¹²⁰ Nikolov, I, 'The Terem Affair: To Be Continued,' [in Bulgarian] *Capital*, 18 October 2003.

¹²¹ 'Six Brought to Court for Illegal Arms Deals,' [in Bulgarian] *Novinar*, 26 June 2003.

The data on SALW trafficking provided by state institutions, such as the Customs Agency and the Mol, shows that no significant trafficking of SALW has been uncovered in the past two years. The majority of cases involved either individuals or small organized groups smuggling small arms and ammunition apparently intended for criminal use. The Customs Agency reports that in the period January 2002–August 2003 a total of 23 small arms contraband cases were foiled.¹²² Their territorial distribution is quite broad, ranging from the border with Turkey (Svilengrad) to the northern border of Bulgaria (Vidin). The greatest number of cases, however, was registered in the Western part of Bulgaria (nine at the Kalotina border crossing with Serbia & Montenegro, and three close to the border with Macedonia – two in Kyustendil and one in Blagoevgrad). Amongst the arms trafficked were Baikal and Makarov pistols, Kalashnikov rifles, grenades and grenade launchers and hunting rifles. About half of the offenders were Bulgarians, but there were also Macedonian, Turkish, Czech, Greek, German, and Austrian nationals.¹²³ All of the cases involved small quantities of firearms. For the whole of 2002 and the first eight months of 2003,

the Customs Agency confiscated a total of five assault rifles, 100 handguns, about 4,000 small arms ammunition pieces, and two portable RPGs.¹²⁴ According to data provided by the Mol, a variety of SALW were confiscated during 2001 (Table 3).

Table 3. SALW Confiscated by the Mol for 2001

Handguns	Rifles	Carbines	Automatic pistols	Automatic rifles	Machine guns	Home-made
140	150	92	6	45	41	130

Source: Mol

3.2. TYPES OF ILLICIT ARMS TRADE SCHEMES

Arms can reach forbidden users through so-called ‘black’ and ‘grey’ deals. A black deal is essentially one whose means and channels are illicit. The operations are not known by the controlling authorities and no attempts are made to legalize the deal. In recent years, however, a growing portion of arms shipments to forbidden destinations around the world are the result of grey deals. These arms deliveries typically have some legal elements and benefit from some degree of official protection but remain by and large illicit. Companies use apparently valid end-user certificates to obtain export or re-export permits. In a large number of cases documents appear to be in order. However, a closer analysis would reveal that the arms are intended to be diverted to a destination other than the one specified in the end-user certificate (EUC). In this case, there are two possible scenarios

- The first involves the issuance of a regular EUC signed by authorized but corrupt officials in the recipient country. Most often these are countries with poor or non-existent arms export controls, often located near troubled regions or countries in conflict. The accompanying documents are taken at face value and the arms are legally shipped to the stated country. The corrupt officials, or those that have

¹²² *Ibid.*

¹²³ Interviews with Customs Agency officials, 25 July 2003.

¹²⁴ Tolev, *op cit.*

bribed them, later redirect the shipment to the forbidden destination, often a country under embargo.

- The second involves the use of a counterfeit end-user certificate. Only a closer inspection would reveal that the issuing authority does not exist, that the signatories are no longer alive, or that the authorities are completely unaware of the deal.

Grey market deals are the hardest to control since the borderline between legal and illegal can be very fine. Besides, attempts to uncover these deals always carry the risk that the relevant law enforcement bodies might encounter resistance from corrupt officials.

Bulgaria is not immune from the risks associated with 'black' or 'grey' arms deals that use false end-user certificates. In the 1990s Bulgarian arms were frequently diverted to illegal users, often with false end-user certificates provided by international arms brokers. Such is the case of the Bulgarian arms transfer to UNITA via Togo, mentioned in Chapter 2.

Particular attention should be paid to the activities of the brokers who link the manufacturers with the final users. These individuals are adept at creating complex webs to conceal their activities and, therefore, their clients, be they legitimate users or outright criminals and human rights violators. Brokers have also proved expert at providing false documentation. At a certain stage during the transaction, the broker is the owner of the goods, which makes it possible for them to raise the sale price paid by the end-user country considerably (in some cases up to 200 percent). The price difference is used to pay for "commissions" or to bribe high-ranking officials.

Another equally important participant in transactions is the shipping company. No matter how strict the control on transactions is, control during transportation is very difficult, especially when the shipment is transported by plane or ship. In most cases, it is necessary to make technical landings and stops in ports on the way, during which the unscrupulous shipper can redirect the arms. The case of the notorious Russian arms dealer Victor Bout presents the clearest example of the risks related to arms brokering and shipments. Working with a fleet estimated to consist of close to 60 cargo planes, Bout has brokered arms sales to embargoed destinations from or via Bulgaria.

3.3. FACTORS IN THE ILLICIT ARMS TRADE

Despite the systematic efforts to improve arms export controls and implement the legal requirements, the results are not always satisfactory. There are a number of social and economic factors that create conditions favorable to the illicit trade. These factors also lead the Commission to interpret Bulgaria's international commitments without adherence to the highest moral standards. Becoming aware of these underlying factors can help curb illicit trade and help direct the resources available to combat it where they are really needed.

The pressure factors include: the over-capacity of the Bulgarian defense industry in the field of SALW production; the financial difficulties experienced by many defense companies; and the social and economic significance of the defense industry for some regions. Additional factors such as strong organized criminal networks, a weak

judiciary, registered firearms proliferation, customs and border controls corruption and institutional resistance to change further obstruct the functioning and improvement of the current arms export control system.

Another risk factor lies in the multiple roles of the state. Merging control activities with developmental, production and trade activities puts controlling bodies in a position of strong dependence on business. The consequent vulnerability to manipulation is a key factor that may encourage illicit transfers. These are also influenced by the liberalization of the SALW domestic markets, the globalization of the international trade, as well as economic underdevelopment and high unemployment, political instability, and the emergence of organized crime and its cross-border activities. All of these factors may play an important role in the increase in demand for illegal or semi-legal arms.

Overcapacity in SALW production

In the post-Cold War era Bulgaria inherited a relatively sizeable technological and production capacity. A highly centralized, state-controlled, and well-developed production and trade capacity had been built up during the initial industrialization period in the 1950s and 1960s. At that time science and technology staff was trained and modern digital programming technologies for SALW production began to be employed. The country's production capacities exceeded the national demand many times over, and presupposed the existence of an arms export national policy (for the needs of the Warsaw Pact countries, other socialist states or national liberation movements in the 'Third World'). After 1989 this overcapacity remained, as conversion programs were not successfully implemented (See the section above on 'Product reorientation and conversion').

In the centralized economy before 1989, all weapons produced were subject to military certification for which a specialized system was set up at the MoD. This system was dismantled in the market transition process, since it was expensive and inappropriate for defense purposes. This move put an end to the state practice of monitoring the quantity of arms produced and in that way necessary information for tracing internal arms transfers was lost. Thus the state lost its ability to keep track of SALW production.

Developing economy and high unemployment

Presently, Bulgaria has a developing economy with low competitiveness and a high level of unemployment.¹²⁵ Such an environment strengthens the dependence on arms production as a means for preventing the rise in unemployment. The trend is particularly manifest in the areas where defense companies are the mainstay of the job market. These are the areas around the towns of Kazanlak, Sopot and Karlovo, Veliko Tarnovo, Lyaskovets and Gorna Oryahovitsa. If the government pairs the programs for conversion from SALW production with alternative employment programs for laid-off workers, the social tensions in these regions will be reduced. Government defense expenditures should more visibly favor conversion from defense to non-military production; no offset agreements have so far demonstrated

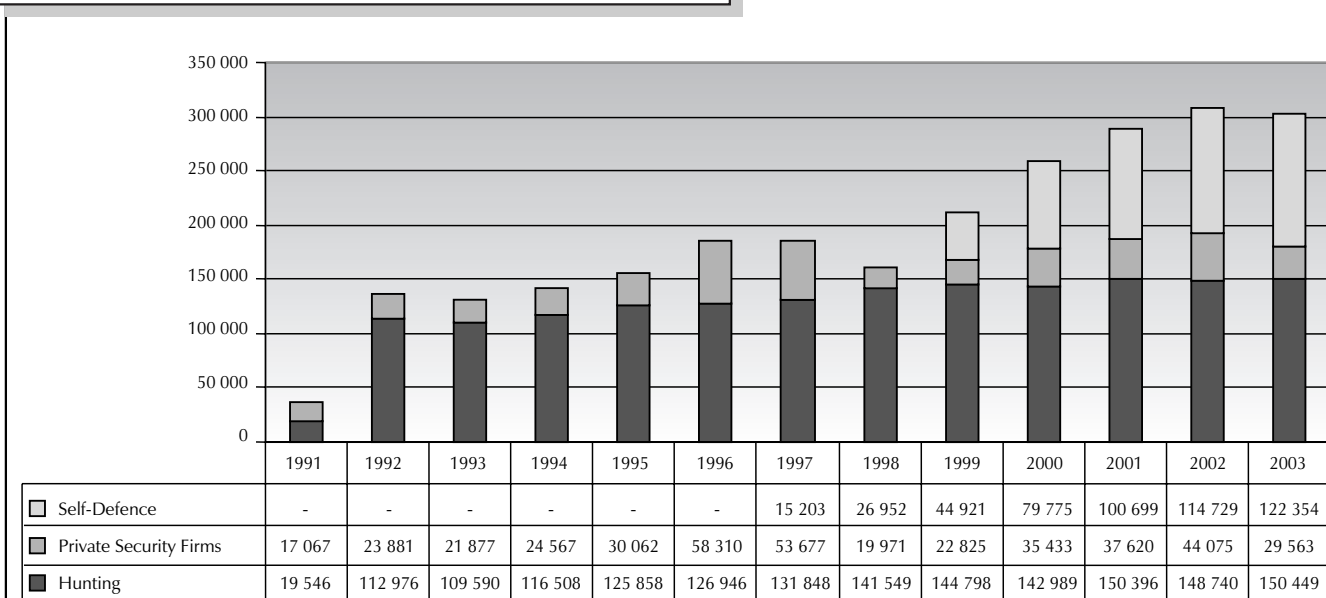
¹²⁵ 12.9% according to government statistics, with trade union claims that it could be as high as 30%. See also Ivanov T, *Defense Economics* [in Bulgarian] (Sofia, University Publisher Stopanstvo, 2002), pp 182–184.

governmental support for conversion programs. Many of the current producers are afraid to lay off additional workers and many defense companies, such as Arsenal, Beta-Cherven Briag or some units of Terem, work only a few days a week.¹²⁶

Firearms proliferation in Bulgaria

The proliferation of firearms among the civilian population is a factor that creates an environment conducive to illegal arms production and trading. Until 1991 civilian possession of firearms was restricted to hunters and sportsmen. After 1991 certain categories of civilians, such as private guards, were allowed to bear arms. During 1996 and 1997 more categories of civilians were allowed to bear arms for work-related purposes. Only after 1998 did changes in the Law on Control of Explosives, Firearms and Ammunitions allow ordinary civilians to bear arms for self-defense. Unlike other countries in the region, such as Albania, Bulgaria does not have a gun culture. By the end of 1992 private individuals were in possession of around 113,000 hunting arms. In the following five years, although the number of hunting arms remained relatively stable, the number of firearms owned by private security guards and business owners who could prove that they needed protection increased. In 1996, there were 58,310 firearms in the possession of the latter two categories of individuals. After 1997 the law was further liberalized allowing more categories of private citizens to own firearms. The period from 1998 to 2000 saw a notable increase in the number of firearms owned by civilians and a decrease in the number of firearms owned by private security firms.

Chart 2. Number of Registered Firearms in Bulgaria



Source: Control of Hazardous Devices Office, MoI

¹²⁶ Interviews with defense industry representatives, 25 September 2003.

The Control of Hazardous Devices Office, which registers all firearms in the country, explains this by pointing not only to the increased sense of insecurity among private citizens but also to the new tendency among private security companies to register their arms under their employees' names. In this way, firearms become privately owned and the liabilities of the company are reduced.¹²⁷ When one analyses the 2003 distribution of 302,366 registered firearms, it is difficult to estimate the real amount that civilians own for self-defense. Although there are 122,354 for self-defense and 29,563 for security companies, a significant but unknown quantity of the 122,354 firearms is actually owned by employees of private security firms that use them primarily for professional needs.

Today there are 301 private security companies in Bulgaria.¹²⁸ Their growth is most often ascribed to the stark increase in crime in the 1990s that led many people to provide for their own security, often by acquiring firearms illegally. The spread of firearms in Bulgaria is also exacerbated by the broad distribution network of over 100 stores that offer low-priced domestically produced handguns. An Arsenal-made Makarov pistol can be purchased for as low as \$130 and Arcus-made pistols are sold at around \$250. Black-market prices for Kalashnikov assault rifles are as low as \$120.¹²⁹ Another reason is that the Law on Control of Explosives, Firearms and Ammunition has placed few restrictions on firearms registration. In August 2003 new amendments to this law made the procedure for registering privately owned arms easier but limited access to legal firearms by individuals with a record for petty crime. In addition, it restricted access of armed individuals to a number of public spaces.

Although the absolute number of registered firearms is much smaller than in neighboring countries, such as Serbia and Montenegro, where 8 million citizens are in possession of over 1 million registered firearms,¹³⁰ the growth trends in Bulgaria are worrying. The slight decrease in 2003 of about 5,000 firearms could indicate that the market has reached saturation point, but it could also indicate difficulties in the renewal of firearm registration early in 2003 due to procedural delays which were rectified only in August 2003.

The number of illegally owned firearms is largely unknown and the police has no credible estimates. In 1998 a representative of Bulgaria's Hunters and Fishermen Union claimed that there were close to 100,000 illegally owned hunting firearms.¹³¹ The relatively strict and lengthy¹³² procedure for obtaining arms permits encourages many, especially criminals, to obtain arms illegally. There is certainly a large number of illegally owned firearms, produced in illegal workshops around the country (see Box 2) or smuggled from parts of the Western Balkans.

The number of chemical spray guns in circulation is also unknown. A spat of high-profile murders in late 2003 committed with remodeled chemical spray guns increased

¹²⁷ Interview with CHDO official, 27 October 2003.

¹²⁸ National Police Service Directorate, <<http://www.dnsp.mvr.bg/ohranfirmi.htm>>, accessed 16 October 2003.

¹²⁹ The quoted prices are based on CSD's own investigation.

¹³⁰ IANSA Kosovo and country profile, <<http://www.iansa.org/regions/europe/kosovo.htm>>, accessed 2 October 2003.

¹³¹ Desislava Ionova, '100,000 Bulgarians Hunting Illegally,' [in Bulgarian] *Democratia*, 9 September 1998.

¹³² There are only 200 officers around the country working for the National Police Service's Control of Hazardous Devices Office (CHDO), which is in charge of issuing and renewing firearms permits.

demands for the regulation of imports and sales of such guns. The problem came from CIS-made chemical spray guns (PSM-Izh 70 and Izh-79 “Baikal”), which unlike spray guns, use material that allows for their transformation into combat guns. Under pressure from the police and the NSCOC, in January 2004 the MoI considered the introduction of permits for the importation and ownership of chemical spray guns.¹³³

Box 2. Illegal Production of Arms

- In February 2003 the Plovdiv police discovered an illegal arms workshop in a small village next to the town of Karlovo. The facility produced AK assault rifles and handguns. Five people were arrested.¹³⁴
- In March 2003 a joint operation of the police in the regions of Russe, Gabrovo, and Veliko Tarnovo discovered an illegal firearms workshop and arms trade network spanning across central North Bulgaria.¹³⁵
- In May 2003 the NSCOC broke up an organized group in Kazanlak for illegal production and trade with arms.¹³⁶

Higher level of general and organized crime

In the past decade, following the demise of Communism in Bulgaria and amidst weak state institutions, organized criminal groups have evolved to extend their reach within society.¹³⁷ From operating as a link on the Balkan transit route for drugs, there has been an increasing extension into cigarette, vehicle and human trafficking, gambling, tax fraud, money laundering and gun running. With the prospect of NATO and EU accession came increased initiatives to tighten smuggling activity, but the problems of corruption and resources remain a hindrance to comprehensive action against criminal groups.¹³⁸ In 2001, police identified 295 organized criminal groups with 1,720 members, of which 164 were foreigners.¹³⁹ Operating throughout the country, key focal points are the Black Sea coast, the Bulgarian-Turkish border, and the area bordering Greece and Macedonia.¹⁴⁰

Traditional and organized crime, and the accumulation of illegally acquired funds are factors which contribute to SALW trafficking. Although the rise in the number of illegal arms has to do mainly with the circulation of weapons within Bulgaria, there is naturally a correlation between the availability of firearms within Bulgaria and the regional market for illicit arms. The correlation becomes prominent during civil crises and conflicts in adjacent countries or regions. Troubles in Albania, Macedonia, Kosovo, and Bosnia and Herzegovina have been causally linked to the presence of suppliers in Bulgaria since the early 1990s.

¹³³ ‘The MoI Wants Registration Regime for Spray Guns’, [in Bulgarian], *Dnevnik*, 11 January 2004.

¹³⁴ ‘An Illegal Arms Production Shop is Broken Up,’ [in Bulgarian] *Duma*, 4 February 2003.

¹³⁵ ‘The Police Breaks Up a Network for Production of Illegal Firearms,’ [in Bulgarian] *Sega*, 2 March 2003.

¹³⁶ ‘The Police Hits on a Secret Arms Production Shop,’ [in Bulgarian] *Trud*, 4 July 2003.

¹³⁷ Konstantinova, E, ‘Bulgarian gangs provide key link in European trafficking chain’, *Jane’s Intelligence Review*, 1 November 2001.

¹³⁸ *Ibid.*

¹³⁹ *Ibid.*

¹⁴⁰ *Ibid.*

Border security and corruption

Corruption

In addition to the above underlying factors, corruption at border crossings should be mentioned as a factor that could be exploited by arms traffickers. A 2002 CSD report entitled *Corruption, Trafficking and Institutional Reform* analyses in detail the various mechanisms of corrupt practice that allow the illegal export or import of goods. These methods of corruption could be used to export SALW.

The CSD report notes that smuggling operations are characterized by a high level of organization. The network of corruption involves customs officials, criminal groups and their companies, transport companies, brokers, and officials of the MoI (such as the Border Police Service, NSCOC, NSS, etc). The report warns that “officials from almost all levels within the customs administration” are involved in corrupt practices.¹⁴¹

The report outlines six different types of corruption scheme:

- The first type is the large corruption scheme, involving a large, organized group of people who do not know each other, including border and customs officials, authorities at local and national level, and often politicians. The bribes could amount to hundreds of thousands of dollars per month. The people at the top of such schemes usually have the influence to select the personnel that are supposed to exert control along the trafficking route.¹⁴²
- The second type is a scheme that involves a small organized group of people who know each other. Such groups operate in a particular region with one or two customs directorates. They often include former or present customs officials, the head of the particular customs directorate, and former or present MoI officials. In both this and the previous scheme, the goods that cross the border are registered either at lesser than actual value, or as a type of goods other than what they actually are, to avoid high import taxes.¹⁴³
- The ‘Tandem’ type, also called ‘wild smuggling’, refers to cases when goods cross the borders without being registered at all. This scheme targets individual border posts, where employees from customs, the MoI, and others collude and let the goods cross the border without being registered.¹⁴⁴
- The report also talks about three different types of ‘individual corruption schemes’. In these schemes individual customs officers have their own privileged ‘clients’, or extort money from randomly chosen companies, or expedite processing at the border for a certain fee.¹⁴⁵

In the cases of Terem and Beta, keeping in mind the volume and the complexity of the transaction, the scheme type used most likely involved a large and complex

¹⁴¹ Center for the Study of Democracy, *Corruption Trafficking and Institutional Reform: Prevention of Trans-Border Crime in Bulgaria (2001–2002)*, (Sofia: Center for the Study of Democracy, 2002), p 12.

¹⁴² *Ibid*, p 13.

¹⁴³ *Ibid*, pp 13–14.

¹⁴⁴ *Ibid*, p 14.

¹⁴⁵ *Ibid*, p 14.

organization. In both cases the products were registered by Customs as civilian goods. It is unlikely that Customs officers failed to identify the exported goods as arms parts. The products, after all, came from large well-known defense companies, with past deliveries to the same destinations. The ongoing investigations in these cases should reveal the level at which Mol officials, Customs officers or other government employees were involved.

Lack of Border Security

The Bulgarian government and the EU have been increasing their focus on security of EU and non-EU borders and border crossings in light of Bulgaria's expected 2007 accession to the EU. Some European governments and the EU have donated equipment and have worked with the Mol in improving the capabilities and the quality of the Border Police. Nevertheless, several outstanding issues will in the near term continue to provide favorable conditions for the smuggling of arms.¹⁴⁶

The most acute problem is the security of border facilities. Of particular concern is the security around airports and seaports. The export of Bulgarian arms takes place almost entirely through airports and seaports. Varna and Burgas, the two biggest ports on Bulgaria's 320-kilometer Black Sea coastline are notable examples. Reportedly, the security of the cargo areas at both ports is lax. Neither port's customs facilities have x-ray equipment for inspecting cargos. Nor does either port have examination sheds in which to inspect containers in adverse weather conditions. At the Kapitan Andreevo border crossing with Turkey, Customs conduct thorough inspections on about 2 percent of the entering trucks, and an even smaller proportion of those exiting the country. This inspection ratio is achieved because the crossing's facilities include x-ray equipment. In Varna and Burgas, where no such equipment is available and where the total amount of cargo is significantly higher, the percentage is probably even lower. Sofia Airport also faces security issues because it has multiple entry and exit points with lax security. It is known that goods have been stolen or removed without Customs authorization from the airport's cargo facilities.¹⁴⁷

Another problem in combating arms smuggling is the lax control over small boats. Exports of hundreds of pieces of SALW at a time can be made using such craft. Bulgaria's Black Sea coast has numerous small fishing ports. The entire coastline is patrolled by only three Border Police boats. The Bulgarian Customs Agency does not have its own boats and is dependent on the Border Police. The Border Police is in the process of building radar stations along the coast, but there are still sections of the coast that are not covered by Border Police radars. All this means that small boats coming from Turkey or Ukraine, for example, could load small cargo from Bulgarian small boats or small ports. Small ports along Bulgaria's Black Coast have virtually no security measures in place.¹⁴⁸

¹⁴⁶The issues of border security and smuggling are a separate issue and require extensive analysis. These issues will be the subject of a CSD report, expected in April 2004, which will go beyond the general observations offered here.

¹⁴⁷Interviews with Customs officials, October–November, 2003.

¹⁴⁸*Ibid.*

3.4. TRENDS IN THE ILLICIT SALW TRADE

There has been an increase in the number of channels used for the export of illicit SALW across borders. Destinations include the Western Balkans, Greece, Turkey, and Western Europe. Bulgaria's organized criminal groups are not specialized in illicit arms and ammunition trade. Illicit arms trafficking is often a side activity carried out by individuals with criminal records who have been involved in armed robberies, kidnapping, blackmailing, etc. According to the National Service for Combating Organised Crime,¹⁴⁹ the persons most likely to trade/traffic firearms, ammunition, electronic detonators and explosives illicitly include Bulgarians with criminal records, foreign nationals illegally residing in the country and ethnic Albanians transiting through the country.

The growing interest in acquiring legal chemical spray guns of the Baikal brand is a cause for concern since they can be altered to fire bullets and fitted with a sound moderator. Some of the guns are re-sold on the black market, while others are trafficked into third countries. Data available from law enforcement agencies¹⁵⁰ shows that the arms are intended to reach Bulgarian nationals with criminal records and crime groups residing in Spain, Germany, Greece, and Macedonia. In their submission to the UK All Party Parliamentary Group (APPG) on gun crime, the UK Association of Chief Police Officers (ACPO) quoted Bulgaria as the source of illicit altered Baikal spray guns, which are being recovered in increasing numbers from criminals across the UK.¹⁵¹

- On 4 November 2002, at the Kalotina border crossing-point with Serbia, a 23-year-old man was arrested in possession of a Kalashnikov with a silencer, two Makarov pistols with silencers, and over 50 bullet-firing ballpoint pen guns. Ammunition for these weapons was also discovered. The individual was, supposedly, on his way to Madrid, but the bus was scheduled to pass through Serbia, Slovenia, Bosnia and Herzegovina, Italy, and France. The investigation showed that the man came from Pavel Banya, a town near the SALW producer Arsenal, where a number of weapons are known to have been stolen and sold by employees.¹⁵²
- In January 2003, a former police officer was arrested at the Kalotina border crossing, while trying to smuggle 25 handguns, one AK-47 rifle, and 554 bullets.¹⁵³

¹⁴⁹Center for the Study of Democracy, *Round table on Small Arms and Light Weapons Export Controls in Bulgaria*, (Sofia, Center for the Study of Democracy, 28 March 2003), < www.csd.bg/news/smallarms.htm > (accessed 24 October 2003).

¹⁵⁰*Ibid.*

¹⁵¹Submission from Deputy Chief Constable Alan Green, Chair, ACPO Firearms Committee: All Party Parliamentary Group on Gun Crime, 'Combating the Threat of Gun Violence', A report of Parliamentary Hearings, November 2003, p 22.

¹⁵²'A Well Armed Bulgarian is Arrested on his Way to Madrid,' [in Bulgarian] *Monitor*, 5 November 2002.

¹⁵³'Former Police Officer Caught Smuggling Arms,' [in Bulgarian] *Trud*, 19 January 2003.

- In May 2003, the police arrested a Customs Agency officer and several truck drivers from the border town of Svilengrad. Although the officially declared reason was smuggling of goods, the press reported that the investigating officials have admitted to the existence of an arms trafficking route. The murder of a Turkish national, a few weeks prior to the arrests, was said to be connected to mafia battles for control of the channel.¹⁵⁴

3.5. DEALING WITH SURPLUS SALW

In Bulgaria, the largest stocks of small arms are held by the MoD. The MoI also has about 30,000 armed personnel at its various agencies. While there are no surpluses at the MoI, the Bulgarian Armed Forces have gone through massive reductions that have led to the gradual accumulation of surplus arms. Unlike the practice in some Western European countries, where surplus weapons from the Cold War era were publicly accounted for and sold, Bulgaria's arms surpluses have been veiled in secrecy.

As is true of some Western European governments, Bulgaria's priority has been to sell surplus equipment. The sale of surpluses has been carried out by Procurement & Trade, under the MoD. Information about the MoD sales of SALW has been classified, but is certain to be in the order of tens of thousands of units during the 1990s. The difficulty of selling all SALW has led to the preservation of large stockpiles of surplus arms and, especially, ammunition.

There have been conflicting media reports about the size of firearms and ammunition stockpiles. Until 1989, the Bulgarian Army's mobilization preparedness plans required SALW for at least 800,000 soldiers. At the beginning of the 1990s, preparedness levels were reduced to 500,000. Today the Bulgarian Armed Forces number 45,000 and the mobilization preparedness requirement is for 100,000.¹⁵⁵ Unfortunately, since the total MoD sales of surplus SALW remain classified it is difficult to estimate the exact SALW surpluses. In June 2003, the daily *Dnevnik* quoted former defense officials who stated that there were between 300,000 and 350,000 small arms in the mobilization reserves.¹⁵⁶

Ammunition stockpiles are the most problematic of all. Tens of thousands of tons of ammunition lie in MoD warehouses. Although surplus ammunition is unlikely to be sold because of its negligible market value, its safe disposal through destruction remains difficult because of the high costs involved. Moreover, despite the high expenses associated with storage of surpluses there are strong political pressures against their destruction: the MoD is reluctant to be blamed for destroying assets that might have been sold.

Stockpile security has been debated in the media. In January 2003, the Chief of the General Staff, Gen Kolev, admitted that there was a problem with the security of arms and information. According to Kolev, the main reason for this was the closure of military units, which resulted in the transfer of large quantities of arms and munitions to new locations.

¹⁵⁴'Kapitan Andreevo Crossing: Smuggling Channel for Arms and Drugs,' [in Bulgarian] *Monitor*, 23 May 2003.

¹⁵⁵'Military Doctrine of the Republic of Bulgaria', Ministry of Defense, 22 February 2002, Art 93.

¹⁵⁶'The Army Commences the Substitution of Russian Submachine Guns with Bulgarian Ones,' *Dnevnik*, 12 June 2003.

These transfers are not closely monitored and are thus vulnerable to theft. He added that, although control over stocks of weaponry in the military units was performed regularly, it was often simply a formality which did not routinely involve close inspections.¹⁵⁷

In 2002, the Military Police and Military Counterintelligence Security Service reported five thefts of arms and noted that four resulted in the arrest of the perpetrators.¹⁵⁸ This was the lowest figure in the period 1996–2002, falling from 22 in 1996, to nine in 2001, and then to five in 2002. Among the firearms, the most frequently stolen items were 9 mm Makarov pistols and 7.62 mm Kalashnikovs. The Security Service also reported that items still missing include fifty pistols, seven submachine guns, twenty-two *Neto* hand-held anti-tank RPG launchers (ten of them stolen from a military unit in the town of Strajitza).¹⁵⁹

Destruction of surplus SALW

Bulgaria's increased willingness to discuss and implement the disposal of its huge stockpiles of SALW has attracted significant donor assistance. The first destructions of SALW started in 2001 when Bulgaria signed an agreement with the US Government for the destruction of 150,000 small arms. So far, Bulgaria has destroyed around 96,000 SALW and nearly 6,700,000 rounds of ammunition under this agreement.¹⁶⁰ In July 2003, under a project funded by the United Nations Development Program (UNDP), the MoD destroyed 4,500 SALW, 750,000 bullets and 4,000 100 mm rounds. This project has highlighted the MoD's reluctance to provide precise information on existing stockpiles and surpluses. As a result, the UNDP is planning to conduct an independent assessment of surplus SALW stockpiles.¹⁶¹

Pursuant to the Conventional Forces in Europe Treaty, Bulgaria has selected the 137th Central Storage and Technical Maintenance Base in the city of Veliko Tarnovo as the facility to which surplus artillery weapons will be transported for storage and destruction. Moreover, the Veliko Tarnovo branch of Terem, the company being appointed to perform the actual destruction of surplus SALW, is situated nearby and has developed special technologies for destruction and disposal of the whole range of SALW. According to the MoD, the international inspections, conducted by a joint group of American and Norwegian experts in October 2000, has concluded that the Ministry's SALW storage is secure and all arms accounted for. CSD could not confirm the conclusions of this inspection. Another visit conducted in the summer of 2002 by the South Eastern Europe Clearinghouse for the Control of SALW (SEESAC) noted that the Bulgarian government has informed them that "the Bulgarian Army has introduced an effective system for safe storage and record-keeping of SALW, preventing thefts and uncontrolled movement of arms and ammunition."¹⁶² From the description in this report of the brief duration of the visit and the nature of the interviews, it should be noted that SEESAC is unlikely to have been able independently to confirm the Bulgarian Armed Forces' claim of stockpile security.

¹⁵⁷ 'Thefts of Arms and Information from the Army,' [in Bulgarian] *Dnevnik*, 11 January 2003.

¹⁵⁸ 'President Parvanov is Angry about Information Leaks and Arms Thefts,' [in Bulgarian] *Monitor*, 11 January 2003.

¹⁵⁹ 'Suspect Found in the Theft of 10 RPGs,' [in Bulgarian] *Sega*, 18 January 2003.

¹⁶⁰ Interviews with MoD officials, 7 June 2003.

¹⁶¹ Interview with a UNDP official, 25 September 2003.

¹⁶² Van der Graaf H, Rutherford C, *Short Mission Report: SEESAC Consultation in Bulgaria, 8-10 July 2002*, (Belgrade, SEESAC, 2002), <<http://www.seesac.org/about/bulg.htm>>, (accessed 6 October 2003).

3.6. MARKING AND TRACING SALW

Marking

Although the Law on the Control of Explosives, Firearms and Ammunition that regulates the production of firearms and ammunition does not state specific requirements for markings of small arms and ammunition, the OSCE has mandated that after 30 June 2001 the markings on small arms manufactured by OSCE member-states must detail the year, country of manufacture, manufacturer's name, and a serial number. As an OSCE member, Bulgaria has also agreed that, if it discovers unmarked small arms in its current stockpiles, it will destroy them, or mark them before exporting or using them.¹⁶³

Punishing Illegal Arms Trading

Administrative measure

Amendments to the LCFTADGT increased the penalties in cases of violation of the Law. Previously, the fines amounted to between 25 and 250 Bulgarian leva (€ 12–€ 125). The new texts lay down fines ranging from 5,000 to 50,000 leva (€ 2,500–€ 25,000) for private individuals. For companies, the fines are even more severe. They amount to double the value of the transaction. (Article 19, LCFTADGT)

Penal Code provisions

Article 233 penalizes the illegal trade in dual-use goods and technologies with up to 8 years imprisonment or a 1 million leva (€500,000) fine.

Article 337 penalises illegal trade in, and production and transfer of, explosives, arms, and ammunition with up to 6 years imprisonment (2–8 years for civil servants).

Article 339 penalises the illegal acquisition and ownership of explosives, arms, and ammunition.

Civilian and military SALW produced by Bulgarian companies are marked according to OSCE requirements. In line with Bulgaria's compatibility with NATO, all arms and ammunition of the Bulgarian Armed Forces will need to bear the standard marking for NATO armaments. This is likely to become the standard for the production of all Bulgarian defense companies.

The markings of Bulgarian-made arms and ammunition are regulated by two additional state bodies. The Bulgarian Standardization Institute is the regulatory body that develops national production standards and introduces international standards in the country.¹⁶⁴ In addition, the National Codification Bureau at the Ministry of

¹⁶³Organization for Security and Co-operation in Europe, *OSCE Document on Small Arms and Light Weapons*, adopted at the 308th Plenary Meeting of the OSCE Forum for Security Co-operation on 24-November 2000.

¹⁶⁴National Standardization Law, SG 55/1999, last amended 13/2002.

Defense ensures that all military equipment used in the Bulgarian Armed Forces corresponds to NATO standards.¹⁶⁵

Tracing

Requests for tracing are usually submitted via the MFA to the Interdepartmental Commission. The manufacturers do not provide the government with the serial numbers of all produced arms and ammunition. Only the serial numbers of the arms and ammunition that are exported (or imported) are submitted in the export/import permit application to the Commission. Nevertheless, if the proper markings are in place, the Commission should easily be able to identify the producer.

The tracing of civilian firearms is coordinated by the Control of Hazardous Devices Office (CHDO) within the MoI. When a civilian purchases a firearm s/he is supposed to register it with the CHDO, where in addition to recording the brand of the firearm and its serial number, each weapon undergoes a ballistic analysis. The data is entered into a database which the police can consult in order to trace the owner of a firearm used in unlawful activity. This explains why very few crimes are committed with registered firearms.

¹⁶⁵Decision No 11 of the Council of Ministers from 26 January 1999 on the Establishment of a National Codification Bureau Directorate for the Development, Maintenance and Application of Classifications and Nomenclatures to Armaments, Technical Equipment, Ammunition, and National Defense Assets. SG 75/2003.

4. THE IMPACT OF STRICTER SALW CONTROLS

4.1. PREREQUISITES FOR SALW PRODUCTION RESTRUCTURING

No measures for imposing stricter SALW export controls would be successful without taking full account of the overall effect of the MIC restructuring. Thus, export control and restructuring policies need to be coordinated. The arms trade is dependent on both the political framework reflected in the national defense-industrial policy and the capabilities of the defense companies. The development of Bulgaria's defense industry and the tightening of arms export controls are closely correlated. Establishing an appropriate balance between industry development and arms controls requires an in-depth knowledge of the state of the defense industry.

Prospects for development and growth in alternative directions amongst East European countries' traditional defense companies are quite narrow given the absence of defense industrial co-operation and the degree of competition on the western markets. There are only a handful of options that would increase the chances for the survival of the Bulgarian defense industry. One option is to increase domestic demand for defense products by curbing imports of defense goods. This could be done by raising tariffs or introducing quotas or other limitations on certain imports. However, besides the political obstacles, this strategy would lead to autarchy and low quality defense output.¹⁶⁶ Another path would be to raise the export levels, but, keeping in mind the restricted access to arms markets in developed countries, most of the opportunities lie with exports to countries in conflict, especially in Africa and Asia. Such an option would run contrary to Bulgarian, NATO- and EU-oriented policy goals of preventing conflict and contributing to peace and stability.

Although the EU and NATO accession processes have been used by NATO and the EU to exert pressure on Bulgaria to strengthen its controls, the result should not only be viewed as an obstacle to export growth. The two processes have also been the foundation of some partnerships and a growing interest of NATO members' defense companies in the Bulgarian defense industry. The preservation of some defense industry potential in the aspirant countries is clearly a necessity. If the new NATO members preserve or develop their defense industries, they might be willing to modernize their armies faster. On the other hand, Bulgaria's accession to NATO does not mean direct access to the corresponding markets. It would take some time before all Bulgarian defense companies meet the standard NATO technology and quality requirements. Furthermore, NATO member countries protect their national markets and balance their defense procurement, taking into account both national interests and relationships with partner countries.

EU membership itself should not be seen as panacea for the defense industry because the EU does not regulate defense industry or defense procurement. This is considered a matter falling under the national remit.¹⁶⁷

¹⁶⁶Dimitrov D, *Restructuring and Conversion*, p 85.

¹⁶⁷Article 223 of the Treaty of Rome unambiguously declares that member states may exempt conventional arms production and arms trade from EU common rules.

On the other hand, NATO and the EU would make a mistake if they waited for their East European partners to restructure and modernize their defense industries on their own. The delay of co-operation and integration in the arms field between Eastern and Western European states and the lack of funds for relevant programs, including conversion programs, makes progress difficult for the Eastern partners. These countries, including Bulgaria, play a crucial part in international security by curtailing exports to countries outside NATO and the EU. Many such restrictions are self-imposed and derive from the reorientation towards European markets. They could be interpreted as simply a sign of good will in the accession process.

Bulgaria and other Eastern European countries are paying a high price for their contribution to international security, through more rigorous arms trade control policy and legislation. It is the price of substantial MIC reduction, a high level of unemployment and shrinking arms markets. Without this policy, developed countries would probably have to spend much more on humanitarian aid, economic recovery and peacekeeping deployments worldwide. These arguments should be an incentive for EU- and NATO-coordinated programs to assist Bulgaria. Help should focus on the restructuring of its defense industry, through conversion of the most unprofitable production lines and participation in European defense projects. The latter will enhance the country's integration prospects and reduce manufacturing spending.

Bulgaria does not have any particular political or geostrategic interests to pursue through arms production. The motives for exporting arms are thus purely economic. This implies that the restructuring of the defense industry is a question of attaining the right balance domestically in social and economic spheres. The government should make an assessment and decide which defense companies are of importance to national security and focus its support on them. Otherwise, indiscriminate support or incentives for the defense industry would simply increase the profits of arms dealers, further distort the arms market, and incur high political costs.

The MoD has unpaid liabilities to its military repair companies which have led to social unrest at some factories.¹⁶⁸ The delay in restructuring (Terem was registered as an independent company as late as 1999), the lack of a well-formulated development strategy for the companies that are part of Terem, insufficient production orders as well as the bureaucratic state administrative control could lead to more illegal exports, like the October 2002 Targovishte branch scandal.

Forecasts concerning global defense industry development predict that it is going to require less funding than in the past. To an extent, this shift is already in evidence. Production contracts are set to decrease in size, while modern production methods will be increasingly important in maintaining low costs. New incentives for international co-operation may make joint ventures increasingly likely. NATO continues to recommend that its members

¹⁶⁸In October and November 2002, the workers at Terem's Targovishte plant went on a two week strike. (Declaration of the Workers at Terem Targovishte and the Federation of Independent Defense Trade Unions member of the Confederation of Independent Trade Unions in Bulgaria, Press release, 26 November 2002, <<http://www.knsb-bg.org/bg/contents/i2/newsboard/articles/17.html>>, accessed on 20 September 2003. The workers went on strike again in June 2003, ('Workers in Terem Targovishte Ended their 2-Week Long Strike', *Netinfo*, 18 June 2003). The *Standart* daily newspaper also reported that Terem, just like other state companies, continues to owe its workers 5.6 million leva (€ 2.8 million) in unpaid salaries. ('170,000 Awaiting Their Salaries', *Standart* daily, 15 July 2003). In October 2003 the amount reached 7 million leva and 3,300 workers were about to go on strike ('3,300 Workers from Terem Going on Strike', *News.bg*, 10 October 2003).

reduce defense procurement fragmentation by pooling their military capabilities, through co-operative acquisition of equipment and through common funding.¹⁶⁹

The issue of the Bulgarian defense industry's international integration and co-operation can evidently no longer be postponed – not least because of the existing requirements for more effective production and the transfer of high technologies. Without external assistance, most East European countries cannot maintain high technology capabilities and act as effective allies to NATO and Europe with the necessary compatibility of their armed forces.¹⁷⁰

4.2. DIRECT AND ALTERNATIVE ECONOMIC EFFECTS

The economic consequences of reducing SALW production and exports are also predetermined by the present state of the Bulgarian defense industry. Since there is no substantial internal SALW market and there is competition from the sale of surplus arms from the Bulgarian Armed Forces, limiting SALW export through administrative measures, going even beyond export control, will bring the demise of companies like Arsenal or VMZ. Such companies are already on the verge of collapse and use the minimum of their defense production potential. Further shrinking of SALW output without reorientation to other products and markets will cause their closure.

The exact assessment of the possible negative consequences should be the topic of a more extensive analysis. However, the direct negative impact could be summarized as follows:

- Further cutbacks in defense production. A substantial decline has already been recorded. Over the last thirteen years production has dropped seven to eight times as compared to its 1989 level.¹⁷¹
- Increase of unemployment. Commonly, defense companies and their subsidiaries were situated in medium to small cities which led to higher population density. In some cases (VMZ in Sopot, Arsenal in Kazanlak, Beta in Cherven Briag) the defense plants gained a dominant role as employers. These are the areas likely to be most affected by stricter arms export controls.
- Increased costs in social assistance allowances, and benefits and retraining for the unemployed.
- Economic losses incurred by subcontractors.
- Decrease of tax revenues and municipal budget revenues.
- Growth of company liabilities to suppliers, banks, the state budget, social security funds, etc.

¹⁶⁹The NATO Parliamentary Assembly, *2002 Istanbul Declaration on NATO Transformation*, (Brussels, NATO, 19 November 2002) <<http://www.nato-pa.int/default.asp?shortcut=337>>, and Lord Robertson, *Speech to Bulgarian Parliament, Sofia, Bulgaria, 17 February 2003*, (Brussels, NATO, 2003), <<http://www.nato.int/docu/speech/2003/s030217a.htm>>

¹⁷⁰Bailos, *op cit*, pp 13–14.

¹⁷¹BICC Conversion Survey 2001, p 121.

4.3. RESTRUCTURING AND ALTERNATIVE DEVELOPMENT MEASURES

The restriction of SALW exports to countries of concern and the economic viability of production companies should not be seen as alternatives. The key notions in this respect are restructuring, redirection of excessive production capacity into other spheres corresponding to national interests, the country's international commitments and Euro-Atlantic integration. Besides being an owner of MIC companies, the state is also the guarantor of national security, which suggests that the existence and maintenance of MIC companies is not simply an economic process.

A single-minded reduction of SALW exports without providing attainable restructuring chances for defense producers will generate severe economic blocks and in some cases serious attempts to evade the existing arms trade regime. The defense industry has been reduced significantly. The key dynamic to grasp is that its further reduction using purely administrative or legal measures would not bring positive results.

Guaranteeing national security and exercising rigid export controls entails a complex approach to solving state regulation problems for the various spheres. Increased export control must be combined with concrete actions aimed at company restructuring both on the part of the state and the producers. In addition, the Bulgarian defense industry is heavily dependent on the national economy and the reform of the Bulgarian Armed Forces.

5. RECOMMENDATIONS

Bulgaria has made significant progress in enacting modern legislation for the control of the trade in ADUGT and the establishment of mechanisms for its implementation. Yet the enforcement of export controls remains difficult and the lack of transparency is a key problem. Furthermore, legislative and regulatory loopholes exist for unscrupulous arms dealers to exploit. The aim of this section is to highlight problematic areas within the control system and to recommend measures to tackle them.

5.1. TO THE BULGARIAN GOVERNMENT

The implementation of the LCFTADGT has revealed a number of problems. There are two possible ways to address them. One way is by improving the implementation of the current export control system, particularly the organization and work of the Interdepartmental Commission. Alternatively, these issues could be addressed by creating an autonomous export control agency.

Improving the work of the Interdepartmental Commission

Eliminating conflicts of interest

- Eliminate the dual role of the Minister of Economy, who simultaneously chairs the Interdepartmental Council and the Interdepartmental Commission. In practice this means that the same person signs the trade licenses and the individual transaction permits. This change would alter structurally the probability of conflicts of interest.
- Include legal provisions to preclude Commission or Council members from being on the boards of Defense Industry companies. Currently, the Minister of Economy is the principal of the two largest state-owned arms trade companies, Teraton and Kintex, which could lead to conflicts of interest. The MoD and MoI also control arms trading companies.
- Include provisions to preclude members of the Commission or any of their relatives from having interests in or working for defense companies. In the past such allegations have been made against the Secretary of the Interdepartmental Commission.

Alleviating corruption pressures

- Introduce an annual rotation of the Interdepartmental Commission Secretary. This measure would increase the level of control over the discretionary powers given to the Commission's Secretary.

Improving current export control mechanisms

- Increase the representation of law enforcement bodies within the Interdepartmental Commission. It is recommended that the Director of the National Security Service and the Secretary General of the MoI (supervisor of all MoI agencies), become members of the Commission.
- Reinforce the extent to which export license applications are judged against the impact the proposed export would have on the sustainable development of the recipient country. The system needs to take fuller account of both the fiscal implications of the transfer and the mutually enforcing relationship between security and development in the recipient country.
- Re-instate the system for state certification control over arms and explosives produced and establish a National Centre for SALW Tracking.

Creating a National Arms Trade Controls Agency

Alternatively, the problems with the Interdepartmental Commission could be solved more comprehensively with the establishment of an autonomous body. The *National Agency for Controlling the Trade in Arms and Dual-use Goods and Technologies* would:

- Employ its own expert staff.
- Report to the Prime Minister or the Deputy Prime Minister.
- Conduct all necessary background checks and research, including on-the-spot inspections before issuing licenses and permits.
- Control the transactions at their various stages, and be responsible for contacting the authorities in end-user countries.
- Co-ordinate the work of all other institutions in matters related to arms and dual-use goods controls.
- Maintain a database of all transactions, and detailed information on all manufacturers, brokers, authorized transport companies, end-users and arms produced.
- Prepare materials and train law-enforcement agents or civil servants.
- Establish a network of permanent on-site representatives in the biggest manufacturers to ensure adherence to the law.
- Keep track of, and exert control over, significant domestic transfers of arms and dual-use goods and technologies.

Strengthening controls on domestic trade in arms and dual-use goods and technologies

Many of the problems related to arms exports start with domestic transactions. Priority should be given to a comprehensive approach that will combine control of foreign trade in arms with control of the domestic trade.

- Strengthen controls on domestic trade in dual-use goods and technologies (DUGT). The current Penal Code criminalizes and punishes only illegal exports or imports of DUGT, i.e. only foreign trade.¹⁷² If an illegal DUGT transaction takes place domestically (on Bulgarian territory), the LCFTADGT provides only for administrative sanctions.¹⁷³ Thus, Article 337¹⁷⁴ and Article 339¹⁷⁵ of the Penal Code could be amended by adding a provision to penalize any illegal trade, production, transfer, possession or acquisition of DUGT taking place in Bulgaria. This would lead to more effective controls on the foreign trade in such goods.
- Introduce a control mechanism that enables authorities to be informed when manufacturers sell their arms to another company. Permits should be required for the transportation of ADUGT within Bulgaria.
- Launch a government program for the collection of illicitly held arms or an amnesty law. In 2002, MP Nonka Matova proposed an amnesty law for illegally owned firearms. Her initiative, though, was not successful. The MoI should renew and support such initiatives.
- Establish a database of individuals with criminal records and strengthen controls over the SALW and ammunition acquired by these individuals or persons related to them.
- Set up a computerized arms sales registration system together with a unified real-time information system for tracing and pinpointing the location of weapons.

Strengthening controls on brokers

- Evaluate brokering applicants according to strict and transparent criteria, no matter where they are registered. Very often brokering companies are related to and registered in NATO member-states. In a number of cases companies have US or UK registration, including those with a history of shady activities. Therefore, in addition to implementing an effective screening system, it is necessary to strengthen international co-operation so that Bulgaria is more systematically supplied with information by those countries where brokers are registered or have permanent residence. Such co-operation would enable the government to determine that licensees are solvent and free from liabilities, with a track record for adhering to the principles of Bulgaria's current arms exports policy.

¹⁷² Penal Code, Art 233, amended.

¹⁷³ LCFTADGT, SG 75/2002.

¹⁷⁴ Penal Code, Art 337. This article penalizes the production, transfer, and trade of explosives, arms, and ammunition.

¹⁷⁵ *Ibid*, Art 339. This article penalizes the illegal acquisition and ownership of explosives, arms, and ammunition.

- Criminalize the violation or evasion of the LCFTADGT by brokers. Provisions should be added to Penal Code Articles 237 and 337 to penalize the illegal brokering of arms or of dual-use goods and technologies.

Increasing transparency and government accountability

- Publish annual reports on arms transfers containing details of the type, quantity, value, destination and end-use of the goods which have been both licensed for export and exported. Such a report should be produced by the Commission or the Council of Ministers.¹⁷⁶
- Increase transparency and accountability of business transactions related to the MoD.
- Encourage the Bulgarian MIC to overcome the current culture of secrecy in order to draw on progressive skills and management techniques from the wider world.
- Provide public statistics on Bulgaria's arms exports, imports, income and expenditure and arrange a separate section on arms transfers in Bulgaria's balance of trade statistics.
- Ensure appropriate publicity for the annual report on the implementation of the LCFTADGT. This document is submitted by the Council of Ministers to Parliament.
- Create an Arms Control Sub-Committee at the National Parliament. Such a sub-commission could be part of the Standing Committee on Foreign Policy, Security and Defense. The sub-committee would exert Parliamentary control on issues of foreign trade of arms and dual-use goods and technologies.
- Invite civil society organizations for public hearings in Parliament on non-proliferation issues. This is one way to encourage the involvement of civil society organizations in arms non-proliferation issues. There are a number of experts, from academia, NGOs, think-tanks, and the media who could provide valuable input and critical views on the monitoring of the arms trade or improving arms controls.

Improving the operational capacity to implement and enforce controls

- Consider an increase in the administrative and financial resources needed for applying the highest standards in arms export controls and employing suitably skilled and experienced personnel.
- Use revenue from license and permit fees¹⁷⁷ in a more targeted way. Currently, license and permit fee revenues constitute part of the MoD general budget.¹⁷⁸

¹⁷⁶This point was among the conclusions of a roundtable, co-hosted by the Atlantic Club of Bulgaria and Saferworld in collaboration with the Bulgarian MFA and the UK Foreign & Commonwealth Office, entitled, 'Implementing Arms Export Controls and Combating Small Arms Proliferation in Bulgaria', Sofia, 14 May 2003.

¹⁷⁷The license fee costs 6,000 Bulgarian leva and the permit fee 3,000 Bulgarian leva.

¹⁷⁸Defense and Armed Forces Act, last amended on 19 April 2002, SG 40/2002, Art 15a, § 4.

These funds could be used to improve the export control system through a number of activities. For example: training of practitioners; publication of manuals for customs officers or annual reports on the implementation of arms export controls; maintenance of an export control web-page; translation of EU legislation (such as the EU Dual-Use Goods and Technologies List) or the lists of export control regimes (such as the Wassenaar Arrangement, Australian Group, Nuclear Suppliers Group, Missile Technologies Control Regime); verification inspections on the implementation of the Convention on Chemical Weapons;¹⁷⁹ and information and training workshops on export controls for defense company officials.

- Conduct training to deepen company and employee responsibility for export control. This would relieve some pressure from the state, by ensuring that controls are implemented by the company prior to state involvement. Closer partnership and regular dialogue with companies should become standard practice.
- Establish mechanisms to enhance information exchange and consultation with EU and other partner countries to make pre- and post-delivery end-user verification more reliable. This is necessary because Bulgaria does not have sufficient information or capacity to make reliable assessments on its own for all end-users, particularly in difficult cases involving forged or misleading end-user certificates, or where it is necessary to monitor the use of arms after export.
- In order to strengthen operational capacity to implement and enforce arms controls, stricter surveillance and controls at border posts, sea- and airports should be introduced. In particular, there is a need to create special units as part of the customs service, which would control external commercial activities with ADUGT. The customs officers in turn should be placed under scrutiny and bear full responsibility for the inflow and outflow of such goods through Bulgarian borders.¹⁸⁰ They should also work within management structures offering appropriate rewards for good performance.

Disposing of surpluses and improving stockpile security

- Launch a national program for the destruction of surplus weapons and install modern production technologies for disposal of ammunition and weapons systems as well, as the destruction of surplus stockpiles of the MoD and the Mol.
- If surpluses cannot be destroyed, create an internet register and annual report on the sale of surplus armaments, including SALW. In addition to providing access to the information for legitimate potential buyers, this would facilitate a transparent analysis of Bulgaria's adherence to the highest international standards on safe disposal of surplus materiel.
- Improve the system of safeguarding SALW and ammunition stock at the MoD and the Mol. Ensure the employees of any private firms used have the requisite

¹⁷⁹Since December 2002, the Commission has been the body implementing Bulgaria's commitments under the Convention on Chemical Weapons.

¹⁸⁰Conclusions, 'Implementing Arms Export Controls and Combating Small Arms Proliferation in Bulgaria', Roundtable co-hosted by the Atlantic Club of Bulgaria and Saferworld in collaboration with the Bulgarian MFA and the UK Foreign & Commonwealth Office, Sofia, 14 May 2003.

experience and training, and are subject to appropriate safeguards, to control both procedure and the risk of corruption.

Overcoming economic challenges

Reorganizing and restructuring the defense industry

- Complete the privatization of the defense industry. To improve the functioning of Bulgaria's MIC, and the regulatory function of the state in controlling domestic and foreign arms trading, it is crucial for the state to withdraw from ownership of companies in the defense industry. This should be done in a very transparent manner. The withdrawal of the state would remove the current conflict of interest by relieving the government from the political burden of not being able to pay off salaries on time. With this done, the government would be able to exert control over arms exports more objectively.
- Upon completion of the privatization of the large state companies (e.g. Kintex AD), private actors will dominate Bulgaria's arms trade. In order to outline the acceptable limits of the privatization process, the risks of violation of official control regimes by private entities should be carefully assessed.

Encouraging international co-operation

- Take active steps to achieve participation in transnational co-operation in defense production within the EU as well as with other developed countries or international companies. This is perhaps the direction of development that provides the brightest prospects for the Bulgarian defense industry. A single-handed breakthrough on already saturated and apportioned European and world markets is extremely difficult even for very large companies. Integration with well-positioned Euro-Atlantic companies is therefore a valuable alternative given the existence of well qualified and experienced staff, and the capacity for fairly high quality production at relatively low cost. This process should be regulated in order to preserve the state's interests.
- Prioritize procurement contracts that include offset agreements involving Bulgarian SALW producers. Although offset arrangements have been a priority for the current government, particular attention should be paid to producers such as Arsenal and VMZ-Sopot. Their financial situation is very difficult and offset agreements could be used to steer their production capabilities gradually towards sophisticated defense products other than SALW. Such offset could take the form of mixed ventures, joint production schemes, technology and know-how transfer, or conversion to production of modern armament systems and equipment. Additionally, staff could be retrained for production and overhaul activities linked to the destruction of existing surplus weapons in the country.

Assisting in the process of conversion to civilian output or product transformation

- Create incentives for the shift from SALW mass production towards civilian output, with the aim of reducing the dependence on exports of SALW. Such programs should target regional centers with traditions in SALW production.

- Develop alternative employment programs for workers laid off by large SALW producing companies, such as Arsenal or VMZ-Sopot. Grant low-interest loans to specialists and workers made redundant with the purpose of setting up civilian production by small and medium companies.
- Set up government-supported programs for production restructuring and reorientation from SALW to modern arms systems and equipment. This would reduce dependence on exporting these goods, and increase the possibility of partnership with foreign governments and companies.

Investing in research and development

- Increase research and development (R&D) spending, particularly in non-SALW areas. The government, through the MoD and other relevant institutions, should clarify its position on scientific integration at the European and Euro-Atlantic security level in consideration of the present scientific potential and research capabilities, as well as the strategic development directions of Bulgarian defense production.¹⁸¹
- Pool together R&D resources. A certain centralization of research activity management is necessary to compensate for sparse resources and shrinking of defense production and consumption. The MoD could be the co-ordination centre for these processes and thus provide the link between Bulgarian Armed Forces reform and the defense industry's research activities. The financing of more efficient research could be secured through earmarking funds for the MoD research budget. Such funds would be distributed among researchers based on bids and contest procedures.

Improving education and domestic dialogue on export controls

- Educate state institutions and the defense industry about the global community's efforts to counter illicit arms proliferation. This could be done through interagency meetings or trainings. Such an effort would help the government rebalance research, production and commercial interests related to SALW. Focus on the implementation of Bulgaria's international commitments to combat the proliferation of SALW, and prevent the transfer of such weapons to regions characterized by violent conflicts and instability or where military spending can impinge upon the state's capacity to attain development.
- Encourage greater dialogue with the defense industry to promote understanding of and compliance with the new arms control norms.

5.2. TO THE DEFENSE INDUSTRY

- Raise the profile of the industry in the public domain by fostering a reputation for legality, transparency and ethical practice. This will be a vital step towards securing public trust and an international reputation for integrity.

¹⁸¹ A general position for R&D strategy has been outlined in the MoD's 'Plan for Modernization of Bulgaria's Armed Forces 2002–2005', Sofia, May 2002.

- Make industry practice compatible with international standards in the fields of human rights, international law and environmental protection:
 - Insert proper language in mission statements.
 - Develop internal control mechanisms.
 - Accept ethics codes.
 - Conduct in-house training for employees.
 - Reveal information on the arms trade that does not jeopardize the financial situation of a company.

5.3. TO THE INTERNATIONAL COMMUNITY

- Establish systematic information exchange with Bulgarian authorities by promoting dialogue and information exchanges related to export and transit controls. Consider provision of funding for this purpose. This is a key way for states to tackle together problems which they cannot face on their own.
- Focus particularly on co-operation between Bulgarian authorities and relevant counterparts in such countries as: the UK, the US, Cyprus and Israel to help verify the status of brokers applying for arms transaction licenses in Bulgaria.
- Assist the government of Bulgaria in disposing of surplus arms. Some initiatives have already been undertaken, but more needs to be done. Bulgaria clearly cannot afford to pay for any large-scale destruction of surplus arms. Currently, the government's plan for modernization of the Armed Forces calls for the "sale of excess movables" and "disposal of obsolete movables that cannot be subject to trading".¹⁸² If the international community would like to prevent further sales of surplus SALW it should propose or offer support for destroying surpluses.
- Support NGO initiatives for increasing transparency and civil society control over the arms trade.

5.4. TO CIVIL SOCIETY

- Raise public awareness of SALW proliferation and its implications, both for domestic gun crime and countries and regions abroad which are exposed to conflict and where human rights are under threat.
- Since the Bulgarian government remains reluctant to increase the level of public transparency on the arms trade, more consistent campaigning work is needed on the part of the civil society sector to bring political pressure to bear on decision-makers to increase transparency and civil society control over the arms trade.

¹⁸² MoD, Armament Policy Directorate, 'Armed Forces Modernization Plan, 2002-2015' Section 7.2.1, <http://www.md.government.bg/plan_mod/_en_/plan_mod_2002_2015.html#s7>, (accessed 26 September 2003).

APPENDICES

APPENDIX 1: LIST OF LICENSED ARMS BROKERS¹⁸³

Full license	Limited license	Dual-use goods and technologies	Transportation of arms
1. Arcus SM JSC	1. Armiko, SM LLC	1. Nuclear Electricity Plant, Kozludui,	1. Aviostart, LLC
2. Arsenal Corporation General	2. Beretta Trading, LLC	2. Aquachim, SM LLC	2. Bright Aviation Services
3. Technical Cooperation LLC	3. Bimpex, LLC	3. Bitova elektronika, (House Electric Appliances) JSC – Veliko Tarnovo	3. Vega Airlines, LLC - Sofia
4. Arsenal JSC (owned by an offshore company)	4. Bronet Trade, LLC	4. Videx, SM LLC	4. Videx, SM LLC
5. Bezkontaktni Multipleksorni Verigi, (Contactless Multiplex Chains) SM LLC (under MoI)	7. Elsan Bulgaria, LLC	5. Delta-G SM LLC	
6. BIG Company LLC	8. Metalchim Commerce, JSC	6. Zebra, JSC	
7. Bul Air International SM LLC	9. Miltech, LLC	7. Kontilinks – Trade and Distribution of Chemicals, LLC	
8. Bulgarian Industrial Engineering Company SM LLC	10. Mill Trade, LLC	8. Lukoil Black Sea, Bulgaria, SM LLC	
9. B and R Engineering SM LLC	11. OMZ, LLC	9. Lukoil Neftochim Burgas	
10. VMZ -Sopot, (Vazov Machine-building Factories) (under Ministry of Economy)	12. Politechnic, LLC	10. Manti Co, LLC	
11. Geracommerce SM LLC	13. Radomir Metals, JSC	11. Metalchim, LLC - Plovdiv	
12. Delta-G SM LLC	14. Samel-90, JSC	12. Miltech, LLC	
13. Defense Industry Group	15. Sema Group, SM LLC	13. Nitrokom, JSC	
14. Dunarit JSC	16. Sportinvest International, LLC	14. RZ-Commercial	
15. Emko SM LLC	17. Star Force, SM LLC - Sofia	15. Samel-90, JSC	
16. Kintex, SM JSC (under Ministry of Economy)	18. Stroiproect, SM LLC	16. Sikotex, SM LLC	
17. Metalica AB, SM LLC	19. Stroiproect Trade, LLC	17. Spartac, B LLC	
18. Metalchim Holding, JSC	20. TET SM LLC	18. Sportinvest International, LLC	
19. NVS-Commerce, SM LLC – Plovdiv	21. Trem Engineering, LLC	19. Terem, SM JSC	
20. NITI, SM JSC	22. Videx, SM LLC	20. Chimimport Orgachim, LLC	
21. Norwood Bulgaria, LLC	23. VIP Trading International, SM LLC	21. Chimtex, LLC - Dimitrovgrad	
22. Octagon International, SM LLC	24. Yotov and Son, LLC	22. Centromet, JSC	
23. SAS Trading, LLC	25. Zavod za prujini (Springs Factory), JSC		
24. Snabdiavane i Targovia MO (Procurement and Trade – MoD), SM LLC (under MoD)	26. Zebra, JSC		
25. Teraton, SM JSC (under the Ministry of Economy)			
26. Terem, SM JSC (under MoD)			

¹ SM JSC or Single Member Joint Stock Company – formerly or currently state-owned entities created for the purposes of privatization.
² LLC – Limited Liability Company
³ SM LLC – Single Member LLCs are owned by only one person

¹⁸³ 'Who is Trading with Arms in Bulgaria,' [in Bulgarian] 24 Chasa, 4 December 2002.

APPENDIX 2: LIST OF BULGARIAN DEFENCE COMPANIES¹⁸⁴

Company	Location	Percent state share	Non-civilian products	Website
Aviotechnica JSCo	Plovdiv	0%	aircraft parts and repair	N/A
Arcus JSC	Lyaskovets	0%	small arms and ammunition, fuses	http://www.arcus-bg.com
Armitech LLC	Plovdiv	0%	communication equipment	N/A
Arsenal JSC	Kazanlak	36%	SALW and ammunition	http://www.arsenal-bg.com
Beta JSC	Cherven Briag	18%	howitzers, towing carriers, armored vehicles	http://www.beta.bg
Bitova Elektronika JSCo	Veliko Tarnovo	9%	communication devices, antennae	http://www.bitova-electronika.com
Dunarit SP JSC	Ruse	100%	aviation bombs, artillery ammunition	http://www.dunarit.rousse.bg
EMKO SP LLC	Sofia	0%	N/A	N/A
Gamma Proekt LLC	Gabrovo	20%	navigational devices for guided missiles, sights	N/A
Impuls SP JSC	Gabrovo	6%	artillery navigation systems, anti-aircraft system components	http://www.impuls.bg/
KPZ (Forge-Press Factory JSC)	Zareva Livada	14%	bomb and artillery corpses	http://www.geocities.com/kpz2000_bg/
Metalik JSC	Gabrovo	20%	steel and aluminum casts	http://www.metalik.veda.bg
Mechanics & Assembly JSC	Sevlievo	14%	N/A	N/A
Miltech Ltd.	Sofia	0%	communications equipment, in 2001 acquired Electron Progress JSC	http://www.miltech-bg.com
Monbat JSC (owned by Prista-Oil)	Montana/Sofia	N/A	batteries for tanks, armored vehicles, aircraft, and helicopters	http://www.monbat.com
Mussala JSC	Samokov	24%	N/A	N/A
NITI JSC	Kazanlak	100%	small arms and ammunition	http://www.kazanlak.bg
Optico Elektron JSC	Panagyurishte	10%	SALW sights	http://www.bia-bg.com/prd/opticoelectron.htm http://www.opticoel.com/
OMZ (Optical-Mechanical Plant)	Sofia	N/A	small arms sights	http://www.rolli.bg/omz/optic.htm
Pirel SC	Gotse Delchev	8%	communications devices	http://www.pirel-bg.com
Samel-90 JSC	Samokov	28%	portable anti-aircraft missile complex, radio-jammers, other communication devices	http://www.samel90.bgcatalog.com
Struma-S SP JSC	Sandanski	25%	heavy machinery and engine parts	http://www.struma-s.com
Trema SC	Tryavna	50%	repairs of military equipments	N/A
VMZ SPJSC	Sopot	100%	artillery ammunition, RPGs, portable anti-aircraft missile complex, aviation bombs	http://www.vnz.bg (under development)
Cherno More SP JSC	Varna	29%	communication and navigation devices	http://www.blacksea.bg (under development)
Zebra JSC	Novi Iskar	5%	rubber protective clothes, materials, gas masks	N/A
Terem (MoD)	Multiple	100%	repair & destruction of all military equipment, including SALW	http://www.terem.bg

¹⁸⁴ Partially based on Armaments and Equipment Policy Directorate, 'Defense Industrial Co-operation', Ministry of Defense, Sofia, 2003.

APPENDIX 3: BULGARIA'S INTERNATIONAL ARMS CONTROL COMMITMENTS

Treaties	Ratification date(s)
1925 Geneva Protocol, Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare	7 March 1934
Antarctic Treaty	11 September 1978
Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction	4 September 1998
Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction	2 August 1972, 13 September 1972, 19 September 1972
Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects	15 October 1982
Treaty on Conventional Armed Forces in Europe	12 November 1991
Comprehensive Nuclear-Test-Ban Treaty	29 September 1999
Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction	10 August 1994
Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques	31 May 1978
Treaty on the Non-Proliferation of Nuclear Weapons	5 September 1969, 18 September 1969, 3 November 1969
Zangger Committee	1992
Nuclear Suppliers' Group	1992
Treaty on Open Skies (not yet in force)	15 April 1994
Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies	28 January 1967, 11 April 1967, 19 April 1967
Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water	13 November 1963, 21 November 1963, 2 December 1963
Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof	16 April 1971, 7 May 1971, 26 May 1971
UN Convention against Transnational Organized Crime	5 December 2001
Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime	06 August 2002
UN Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects	2001
Wassenaar Arrangement	1996
The Australia, Group	2001
The Missile Technology Control Regime, (pledged to abide to MTCR principles)	N/A
EU Code of Conduct	1998
EU Joint Action on Small Arms and Light Weapons	1999
OSCE Criteria on Conventional Arms Transfers	1993
OSCE Document on Small Arms and Light Weapons	2000

APPENDIX 4: BULGARIA'S LIST OF RESTRICTED COUNTRIES

List of countries and organizations towards which the Republic of Bulgaria applies prohibitions or restrictions on the sale and supply of arms and related equipment in accordance with UNSC resolutions and decisions of the EU and the OSCE¹⁸⁵

State	Restrictions from	Document
Measures against international terrorism	UN/EU	United Nations Security Council (UNSC) Resolutions 1333 & 1390 / EU Common Position 2002/402/CFSP (27 May 2002) and Declaration on International Terrorism by the Ministers of Foreign Affairs (27 January 1986)
Azerbaijan	UN/OSCE	UNSC Resolution 853 (non-binding) / Statement by Committee of Senior Officials of the Conference on Security and Co-operation in Europe, Annex 2 to Journal of the Eight Meeting of the Committee. (13 March 1992)
Armenia	UN/OSCE	UNSC Resolution 853 (non-binding) / Statement by Committee of Senior Officials of the Conference on Security and Co-operation in Europe, Annex 2 to Journal of the Eight Meeting of the Committee. (13 March 1992)
Burma	EU	Declaration by the General Affairs Council from 29 July 1991, confirmed by Common Position 96/635/CFSP (28 October 1996), as well as 12 different EU Decisions between 1997 and 2002. (Bulgaria joined these after 30 October 1998)
Bosnia & Herzegovina	EU	Common Positions 96/184/CFSP (26 February 1996) & 2001/719/CFSP (08 October 2001); Decision 99/481/CFSP (19 July 1999)
Zimbabwe	EU	Common Position 2002/145/CFSP (18 February 02)
Iraq	UN/EU	UNSC Resolutions 661 and 687 / Declaration No.56/90 (4 August 1990)
Iran	EU	Declaration from 29 April 1997 (adopted during the Council 'General Questions,' Luxembourg)
China	EU	Declaration by the Madrid European Council (27 June 1989)
Democratic Republic of Congo	EU	EU Common Position 2002/829/CFSP (21 October 2002) & Declaration No.33/93 (07 April 1993)
Liberia	UN/EU	UNSC Resolutions 1343 and 1408 / EU Common Position 2001/357/CFSP (07 May 2001)
Libya	EU	EU Common Position 99/261/CFSP (16 April 1999)
Rwanda	UN	UNSC Resolutions 918, 997, and 1011
Sierra Leone	UN/EU	UNSC Resolutions 1171 & 1299 / EU Common Position 98/408/CFSP (29 June 1998)
Somalia	UN/EU	UNSC Resolutions 733, 1356, and 1425 / EU Common Position 2003/960/CFSP (10 December 2002)
Sudan	EU	Common Position 94/165/CFSP (16 March 1994)

¹⁸⁵ State Gazette, no 61, 8 July 2003.

APPENDIX 5: LAW ON THE CONTROL OF FOREIGN TRADE ACTIVITY IN ARMS AND DUAL-USE GOODS AND TECHNOLOGIES¹⁸⁶

CHAPTER ONE

General Provisions

Article 1

1. The present Law regulates the terms and procedure for the conducting of foreign trade activity in arms and in goods and technologies of potential dual use and state control over these activities.
2. Goods and technologies are deemed to be of potential dual-use when they can be used for both civil and military purposes, including goods and technologies, which can be used for non-explosive purposes as well as to assist in any way the production of nuclear weapon or other nuclear explosive devices. This category also comprises the software bearing such characteristics.
3. The list of arms and the goods and technologies of possible dual use shall be adopted by the Council of Ministers and shall be published in the State Gazette.
4. The following are not subject to control under this law: weapons, outfit, machinery and equipment of Bulgarian and foreign military and police contingents during their transition through or stay in the territory of the Republic of Bulgaria in cases when:
 - 4.1. they fulfill the obligations of the Republic of Bulgaria undertaken with international conventions or by virtue of membership in international organizations;
 - 4.2. they participate in peacekeeping operations;
 - 4.3. they participate in international military training exercises held in or outside the territory of the Republic of Bulgaria;
 - 4.4. they perform humanitarian, environmental, demonstrational or sports tasks of peaceful character.

Article 2

The conducting of foreign trade activity pursuant to Art 1 is subject to state control in order to ensure that national security and the economic foreign political interests of the Republic of Bulgaria will be protected, international peace and security – strengthened and the international obligations of the Republic of Bulgaria – fulfilled.

Article 3

In order to ensure the attainment of the purposes referred to in Art 2, the government bodies, within the scope of their competence, may directly co-operate and exchange information with the corresponding competent authorities of other states, international organizations and regimes, the signing of Co-operation Agreements included.

Article 4

1. The Council of Ministers may introduce restrictions and impose bans on the execution of foreign trade activity in arms and in dual-use goods and technologies when:
 - 1) the activity contravenes the purposes and obligations referred to in Art 2;
 - 2) the goods and technologies are intended or may be used for the development, production, operation, handling, maintenance, storage and dissemination of mass destruction weapons;
 - 3) sanctions exist in respect of a certain state, which are

¹⁸⁶Source: Ministry of Economy

- 3.a. introduced by the Security Council of the UN;
 - 3.b. ensuing from international conventions or from the membership of the Republic of Bulgaria in international organizations, including international regimes for export control in which it participates;
 - 3.c. ensuing from the accession of the Republic of Bulgaria to acts, joint activities and common standpoints of the European Union;
 - 3.d. ensuing from the accession of the Republic of Bulgaria to decisions of international organizations and international regimes for export control of which it is not a full member;
 - 4) the arms, goods and technologies of possible dual-use are intended for a country, in whose territory military operations are being conducted or which participates in a military conflict.
2. The list of the states and organizations in respect whereof the regime to Para 1, Item 3 and 4 is applied, shall be adopted and updated by the Council of Ministers and shall be published in the State Gazette.
 3. The list of states for which the end-user certificate under Art 15, Para 2 is not required, shall be adopted and updated by the Council of Ministers and shall be published in the State Gazette.

CHAPTER TWO

Foreign Trade Activity in Arms Regime

Article 5

1. Foreign trade activity in arms may be solely affected by trade companies registered under the Company Law, under observance of the provisions of the present Law.
2. Foreign trade activity in arms is effected on the basis of a license granted by the Interdepartmental Council on the Matters of the Military Industrial Complex and the Mobilization Preparedness of the Country with the Council of Ministers for the execution of the respective activity and a permit for every individual transaction, issued by the Interdepartmental Commission for Export Control and Non-Proliferation of Weapons of Mass Destruction with the Minister of Economy, hereafter referred to as 'the Interdepartmental Council' and 'the Interdepartmental Commission', respectively, headed by Ministers. The composition and the terms of activity of the Interdepartmental Council and the Interdepartmental Commission shall be established by the Council of Ministers.
3. The intermediary activity related to foreign trade deals in arms may be effected by natural and legal persons who have been granted a license by the Interdepartmental Council for the execution of the this kind of activity.
4. The license and permit are issued by the bodies referred to in Para 2, with a certain period of validity and a certain scope. The initial license is granted with a one-year term of validity, after the expiry of which each ensuing license is granted with a three-year term of validity. The permit is issued with a six-month term of validity and may be solely extended for a single term of six months at most, which cannot be longer than the term of the license.
5. The license is personal and cannot be transferred or assigned to another person.
6. For the issue of the licenses and permits state fees shall be paid in amounts established by the Council of Ministers.
7. Where necessary, the bodies to Para 2 may request the opinion of other state bodies.
8. For the issue of licenses and permits the competent government bodies may perform inspections and designate experts who shall give their opinion on matters requiring specialist knowledge.

Article 6

1. A trade company under Art 5, Para 1 may be granted a license when the requirements are satisfied related to its economic stability and reliability with regard to the conduction of foreign trade activity in arms.
2. The natural or legal persons under Art 5, Para 3 may be granted licenses when the requirements are satisfied related to their economic stability and reliability with regard to the conduction of foreign trade activity in arms, which requirements are established in the Regulation on the Implementation of the present Law.
3. The licensing body may deny granting a license when the requirements under Para 1 or Para 2 are not satisfied.
4. The licensing body may revoke the granted license when:
 - 4.1. circumstances occur which contravene the purposes and obligations referred to in Art 2;
 - 4.2. the terms of the granted license are not fulfilled, or they are breached;
 - 4.3. an obligation provided by the present Law has not been fulfilled, which is evidenced by a deed of a competent state body;
 - 4.4. the licensee has submitted false data on the base of which the license has been granted;
 - 4.5. the licensee has ceased to meet the requirements under Para 1 and 2.
5. When making a decision to revoke a license, the competent body sets forth a term in which the licensee cannot apply for a new license for the same activity. This term cannot be less than two years.
6. The licensing body may cancel the license
 - 6.1. when its term of validity is expired;
 - 6.2. when the license has been revoked;
 - 6.3. on request of the licensee;
 - 6.4. in case the respective trade company or legal person has ceased its activity;
 - 6.5. in case of death of the licensed natural person.
7. The denial to grant a license or the revocation of a license are subject to appeal in the Supreme Administration Court except for the cases when the interests of national security are concerned.
8. The appeal under Para 7 shall not stop the execution of the administrative act.

Article 7

1. A permit to conclude a foreign trade deal in arms can solely be issued to the trade companies under Art 5, Para 1, which have got licenses to conduct such activity. The trade companies applying for a permit to conduct a trade deal in arms shall submit to the Interdepartmental Commission the documents determined under the regulations for implementation of the Law.
2. The Interdepartmental Commission shall issue a permit in case of existence of a consensus among the members – representatives of the authorized ministries. A decision may be taken as an exception also in the absence of the members if the protocol is signed without remarks by the members of the Interdepartmental Commission under an order set out in the regulations for implementation of the Law.
3. The Interdepartmental Commission shall refuse the issuance of a permit when:
 - 3.a. there are circumstances that contradict the goals and obligations set out in article 2;
 - 3.b. certain documents provided for in the regulations for implementation of the Law are missing;
 - 3.c. the deal for which a permit is requested does not correspond to the issued license;

- 3.d. the applicant has provided incomplete data.
4. The Interdepartmental Commission shall revoke the granted permit upon proposal made by each of the members of the Commission, when:
 - 4.1. circumstances arise which contradict the goals and obligations set out in article 2;
 - 4.2. the activity which is performed does not correspond to the issued permit or license;
 - 4.3. the applicant has not fulfilled the obligation provided for by this Law, which non-fulfillment has been established by means of an act of an authorized state body;
 - 4.4. the applicant has submitted incorrect data.
5. The refusal or the decision for revoking of a permit may be appealed to the Supreme Administrative Court except in the cases when the national security interests are concerned.
6. The appeal under Para 5 shall not stop the fulfillment of the administrative act.

Article 8

Article 8 shall be revoked

CHAPTER THREE

Foreign Trade Activity in Dual-Use Goods and Technologies Regime

Article 9

1. Persons registered under the Commercial Code of the Republic of Bulgaria may carry out trade activity with possible dual-use goods and technologies by observing the provisions of the present Law and in accordance with the effective legislation.
2. Export of possible dual-use goods and technologies shall be carried out on the grounds of a permit granted by the Interdepartmental Council and a decision for each deal issued by the Interdepartmental Commission.
3. Import of possible dual-use goods and technologies shall be carried out on the grounds of a permit issued by the Interdepartmental Commission for each deal.
4. The license and the permit shall be issued by the bodies under article 5, Para 2 for a determined period and with a determined scope. The license shall be initially issued for a period of one year, following the expiration of which each successive license shall be issued for a period of three years. The permit for deals shall be issued for a period of six months, and may be extended once for a period of up to six months, which period may not be longer than the term of the license.
5. The license is personal and it may not be transferred or assigned.
6. State fees at amounts set out by the Council of Ministers shall be paid for the issuance of a license and a permit.
7. If necessary the bodies under Article 5, Para 2 may require the opinion of other state bodies.
8. The bodies under Article 5, Para 2 may involve specialists-experts who shall provide an opinion on issues, which require specific knowledge.
9. Intermediary activity related to foreign trade deals with possible dual-use goods and technologies may be carried out by natural persons and legal entities who have obtained a license for performance of such activity issued by the Interdepartmental Council.

Article 10

1. persons under Article 9, Para 1 registered under the Commercial Code shall be issued a license when:

- 1) they are reliable and economically stable
- 2) they certify that they have created conditions and the necessary organization for work with the goods and/or technologies indicated by them, depending on the goods and/or technologies
2. The persons under Article 9, Para 9 shall be granted a license when they meet the requirements for reliability for performance of intermediary activity related to foreign trade deals with possible dual-use goods and technologies, and they are economically stable, determined under the terms and the order provided for in the regulations for implementation of the Law.
3. The licensing body refuses the issuance of a license to the persons under Article 9, Para 1 and 9 when the requirements under Para 1 or Para 2 do not exist.
4. The licensing body revokes the granted license:
 - 1) upon occurrence of circumstances which contradict the goals and obligations set out in Article 2;
 - 2) in case of non-fulfillment or violation of the terms in the license;
 - 3) upon non-fulfillment of an obligation provided for by this Law, established with an act of the authorized state body;
 - 4) when the licensed person has provided incorrect data that served as grounds for the issuance of the license;
 - 5) when the licensed person ceases to meet the requirements of Para 1 or Para 2.
5. With the decision for the revocation a term shall be determined in which the person shall not be allowed to apply for the issuance of a new license for the same activity. This term may not be less than 2 years.
6. The licensing body shall terminate the license:
 - 1) due to expiration of its term;
 - 2) due to its revocation;
 - 3) as per request of the licensed person;
 - 4) upon termination of the activity of the person registered under the Commercial Code or the legal entity;
 - 5) upon death of the licensed natural person.
7. The refusal for issuance of a license or the revocation of a license shall be subject to appeal at the Supreme Administrative Court except in the cases when the national security interests are concerned.
8. The appeal under Article 7 shall not stop the fulfillment of the administrative act.
9. A permit for a foreign trade deal with possible dual-use goods and technologies shall be granted only to persons under Article 9, Para 1, registered under the Commercial Code, who possess a license for such an activity. The persons applying for a permit for a foreign trade deal in arms, present to the Interdepartmental Commission documents set out in the regulations for implementation of the Law.
10. The Interdepartmental Commission shall grant permission in case of existence of a consensus between the members – representatives of the authorized ministries. A decision may be taken as an exception also in the absence of the members if the protocol is signed without remarks by the members of the Interdepartmental Commission under an order set out in the regulations for implementation of the Law.
11. The Interdepartmental Commission shall refuse the issuance of a permit when:
 - 1) there are circumstances that contradict the goals and obligations set out in article 2;
 - 2) certain documents provided for in the regulations for implementation of the Law are missing;

- 3) the deal for which a permit is requested does not correspond to the issued license;
 - 4) the applicant has provided incomplete data.
12. The Interdepartmental Commission shall revoke the granted permit upon proposal made by each of the members of the Commission, when:
- 1) circumstances arise which contradict the goals and obligations set out in article 2;
 - 2) the activity which is performed does not correspond to the issued permit or license;
 - 3) the applicant has not fulfilled the obligation provided for by this Law, which non-fulfillment has been established by means of an act of an authorized state body;
 - 4) the applicant has submitted incorrect data.
13. The refusal for issuance of a permit or revocation of a permit may be appealed to the Supreme Administrative Court except in the cases when the national security interests are concerned.
14. The appeal under Para 13 shall not stop the fulfillment of the administrative act.

Article 11 and Article 12 shall be revoked

Article 13

1. A permit upon export of possible dual-use goods and technologies, not included in the list under Article 1, Para 3 shall be required when the exporter has been informed in writing by the bodies under Article 5, Para 2, that:
 - 1) the dual-use goods and technologies are or may be intended, in their entirety or in part, for the development, production, use, maintenance, storage, detection, identification or spreading of chemical, biological or nuclear weapons or other nuclear explosive devices or for the development, production, maintenance or storage of missiles-carriers of such weapons the regime for which is, covered by the international agreements for prohibition or non-proliferation of such weapons;
 - 2) dual-use goods and technologies are intended for the countries and organizations included in the list under Article 4, Para 2;
 - 3) the possible dual-use goods and technologies are intended for military end-use.
2. If the exporter is aware that the possible dual-use goods and technologies, not included in the list under Article 1, Para 3, which it intends to export are intended in their entirety or in part for some of the goals set out in Article 1, points 1, 2, and 3, it shall be obliged to inform the bodies under Article 5, Para 2.

CHAPTER THREE A

REGIME OF THE INTERNATIONAL TRANSPORTATION OF WEAPONS, OF THE TRANSIT TRANSPORTATION OF WEAPONS AND OF POSSIBLE DUAL-USE GOODS

Article 13 a

The transportation of weapons by carters registered under the Commercial Code from and to the territory of the Republic of Bulgaria as well as from and to the territory of third states shall be carried out on the grounds of a license issued by the Interdepartmental Council under the terms and order set out in the regulations for implementation of the Law.

Article 13 b

1. Transit transportation of weapons through the territory of the Republic of Bulgaria shall be carried out on the grounds of a permit for transit transportation issued by the Interdepartmental Commission. The permit shall be issued for each individual case under the terms and order set out in the regulations for implementation of the Law.
2. Transit transportation of radio active, explosive, flammable, oxidizing, corrosive, bacteriological (biological), toxic and pathogen possible dual-use goods shall be carried out on the grounds of a transit transport permit issued by the Interdepartmental Commission, in which the customs terminals, the route and the period for passing shall be determined. The permit shall be issued for each individual case under the terms and order set out in the regulation for implementation of the Law.

CHAPTER FOUR*Obligations of the Parties to Foreign Trade Activity*

Article 14

The persons engaged in foreign trade activity and/or intermediary activity in arms and in goods and technologies subject to control as stipulated in the present Law, are under the obligation to:

- 1) keep a separate register of the transactions effected as per the present Law, and retain transaction and transportation documents and the information related to the execution of the foreign trade deal for a period of not less than ten years;
- 2) observe the terms and conditions under which this activity has been licensed, and immediately notify in writing the control bodies of any change thereof;
- 3) indicate the name, position and address of the representatives of the party to the transaction and of the end-user, in charge of the performance of the obligations to the transaction, and immediately notify of any replacement or change thereof;
- 4) inform the respective government bodies should a probability become apparent that the goods and technologies subject of foreign trade activity may be used in the way envisaged in Art 13.

Article 15

1. Importers and exporters of weapons shall be obliged to incorporate a provision in the foreign trade contract obliging the buyer that the purchased weapons shall not be transferred to third natural persons or legal entities without the express consent of the Interdepartmental Commission.
2. For certification of the end-use or the end user the exporters of weapons and/or possible dual-use goods and technologies shall present to the Interdepartmental Commission a certificate for end-use/end-user and/or international import certificate issued by the authorized bodies of the end user's country.
3. Upon request by the country of the exporter the Bulgarian authorized bodies shall issue certificate for end-use/end-user and/or international import certificate. The order for the issuance of an end-use/end-user certificate and/or international import certificate shall be determined under the regulations for implementation of the Law.

Article 16

The license and permit obtained under the present Law may be used solely by the grantee thereof. The transference of the license and permit or of rights thereof to a third party shall invalidate the said license and permit whereas the transferor shall thereby forfeit any rights arising from them.

CHAPTER FIVE*Control on the Observance of the Foreign Trade Activity in Arms and in Dual-Use Goods and Technologies Regime*

Article 17

1. The control on the fulfillment of this Law shall be enforced by the bodies under article 5, Para 2, by the authorized bodies of the Ministry of the Interior, the Ministry of Economy and the Customs Agency or by officials authorized by them.
2. The control includes inspections before and after the issuance of the license or the permit for foreign trade activity under this Law.
3. In the performance of control the control bodies under Para 1 may:
 - 1) request by the persons performing foreign trade and/or intermediary activity in arms and/or in possible dual-use goods and technologies the information necessary for the enforcement of control;
 - 2) require the opinions of other state bodies if necessary;
 - 3) visit the areas under customs control on the territory of the Republic of Bulgaria under the terms and order of the existing legislation.
 - 4) address requests to the authorized bodies of other countries for the provision of information necessary for the performance of control.
4. The control bodies shall be obliged to keep in confidence any official, production or commercial secrets of the persons undergoing inspection.
5. In the presence of information about a committed crime the bodies under Para 1 shall refer the matter to the prosecution authorities.
6. Representatives of a foreign state may participate in the enforcement of control in accordance with the international obligations of the Republic of Bulgaria assumed under international agreements or by virtue of participation in international organizations.
7. The Interdepartmental Council and the Interdepartmental Commission may require from the exporter the inclusion of a contractual provision allowing physical inspection by them or by officials authorized by them of the delivery under the foreign trade deal.
8. In relation to the goals under Article 2 the bodies under Article 5, Para 2 may require additional information regarding the foreign trade deal.

Article 18

1. The bodies under Article 5, Para 2 shall present to the Council of Ministers an annual report on the fulfillment of the Law.
2. The Council of Ministers shall present the report under Para 1 to the National Assembly.

CHAPTER SIX*Administrative-Penal Provisions and Property Sanctions*

Article 19

The persons engaged in foreign trade activity in arms and/or possible dual-use goods and technologies who shall not fulfill their obligations under this Law shall be subject to:

- 1) natural persons, as well as commercial companies officials – a penalty between BGN 5,000 and BGN 50,000, if the committed does not represent a crime;
- 2) to the persons registered under the Commercial Code – property sanctions at the double amount of the foreign trade deal.

Article 20

The persons engaged in intermediary activity related to foreign trade deals in arms and/or possible dual-use goods and technologies who do not fulfill their obligations under this Law shall be penalized with a fine amounting between BGN 5,000 and BGN 50,000, respectively a property sanction at the triple amount of the fine.

Article 21 shall be revoked.

Article 22

1. The protocol on the establishment of violations is prepared by officials of the organs of control to Art 17, Para 1.
2. Penal decrees shall be issued by the Head of the respective body under Para 1 or by an official authorized by him.
3. The drawing up of the protocol on the establishment of administrative violations, the imposition of administrative penalties, the appeal against and the enactment of the penal decrees shall take place as prescribed by the Law on Administrative Violations and Penalties.

Additional Provisions

§1. In exceptional events, should the state's national security or the performance of international obligations assumed by the state be jeopardized, or should the state's foreign political interests be infringed, the Council of Ministers may ban the carrying out of import, export, re-export or transit transportation of arms and dual-use goods and technologies, regardless of the issued license and permit.

§1 a. In accordance with this Law:

- 1) "Foreign trade activity in arms and/or possible dual-use goods" is the aggregate of all activities for the preparation and/or performance of a foreign trade deal with goods and/or services, including the granting of customs directions, participation in an international bid, when one of the parties under the transaction despite of its type is a foreign natural person or legal entity registered with the right to perform this type of activity under its national legislation.
- 2) "Intermediary activity related to foreign trade deals in arms and/or possible dual-use goods and technologies" represents part of a foreign trade activity and includes activities related to the preparation and/or performance of the foreign trade deal including forwarding services, transport services, consulting services, financing, when the person performing these activities is not the actual exporter, importer or re-exporter and when in some way these activities are related to the territory of the Republic of Bulgaria or with the use of telecommunication facilities for connection and/or postal services of the Republic of Bulgaria.
- 3) "Technology" represents technical information necessary for the development, production or use of the goods. This information may be in the form of technical data or technical assistance:
 - a) the technical assistance may be in the form of commands, skills, training, working training and consulting services and may include the transfer of technical data;
 - b) the technical data may be in the form of projects, drawings, diagrams, models, formulas, tables, engineering drawings and specifications, written or stored on an other carrier, commands.
- 4) "The export" includes also the transfer of program products (software) and technologies via electronic devices, fax or telephone to a recipient outside the borders of the Republic of Bulgaria. This shall be applicable in respect of verbal transfer of technologies via technical device only in the cases when the technological data is contained in a document the respective part of which is read verbally or is described in such a manner that significantly the same result is achieved.
- 5) "Military end use" means:
 - a) introduction of military items included in the list under Article 1, Para 3;
 - b) use of equipment for production, testing and analysis and its components for the development, production or maintenance of military items included in the list under Article 1, Para 3;

- c) the use of incomplete products in a plant for the production of military items included in the list under Article 1, Para. 3.
- 6) "International regimes for export control" are organizations without determined international legal status whose agreements are not mandatory, and are fulfilled by the countries voluntarily such as the Wassenaar Agreement, the Group of Nuclear Suppliers, the Australian Group, the Control Regime on Missiles Technologies, Zanger Committee, etc.
- 7) A commercial entity shall be considered reliable for the performance of foreign trade activities in arms, if:
 - a) it has established the necessary organization for storage of weapons in accordance with the requirements of the existing legislation;
 - b) it has established the necessary organization for perseverance of the state confidentiality in accordance with the requirements of the existing legislation;
 - c) it has coordinated with the security bodies a list of the natural persons who are directly participating in the foreign trade activity in arms;
 - d) a general manager, members of a management and control body of the commercial company or natural person (persons) under item (c) are not convicted with a general nature crime verdict entered into force;
 - e) there is no data that a general manager or members of a management or control body of the commercial company or a natural person (persons) who directly participate in the foreign trade activity in arms represent a threat to the national security, the economic or foreign policy interests of the Republic of Bulgaria, the strengthening of international peace and security and the fulfillment of the international obligations of the Republic of Bulgaria.

The circumstances shall be examined with a document from the respective authorized body.

- 8) A commercial company shall be considered economically stable for the performance of a foreign trade activity in arms, if:
 - a) it has not been declared in bankruptcy or there are no proceedings for declaring bankruptcy;
 - b) no termination of the activity and announcement of liquidation have been registered;
 - c) there are no liquid and demandable public liabilities, liabilities to the securities funds as well as to natural persons or legal entities, where the obligation has been recognized to the enforced fulfillment body or where it is established by means of a court decision which has entered into force, by means of a notary certified document or a security promissory note.
- 9) The persons under Article 9, Para 1 registered under the Commercial Code are reliable and economically stable when they meet the requirements of item 7, points (c), (d), and (e) and item 8. The circumstances shall be examined with a document from the respective authorized body.

Transitional and Concluding Provisions

§ 23. In the Law on Prohibition of Chemical Weapons and Control of the Toxic Chemical Substances and their precursors (SG, issue 8/2000) the following amendments shall be made:

1. In Article 9 Para 1 shall be amended as follows:

"(1) The licenses under Article 6, 7, 8 and 10 shall be issued by the Interdepartmental Council on the Military Industry Complex and the Mobilization Preparedness of the Country at the Council of Ministers for a determined period of time, determined quantities and under the terms and order set out in an ordinance passed by the Council of Ministers. The licenses shall be issued to persons registered under the Commercial Code and may not be assigned."

2. In Article 11:

- a) in Para 1 the words "The State Commission on Control of Toxic Chemical Substances and Their Precursors at the Council of Ministers" shall be replaced with "Interdepartmental Commission for Export Control and Non-proliferation of Mass Destruction Weapons with the Minister of Economy, under Article 5, Para 2 of the Law on Control of the Foreign Trade Activity in arms and Possible Dual-Use Goods and Technologies"]

- b) Para 2, 3, 4, 5 and 6 shall be revoked.
- 3. Article 12, item 8 shall be revoked.
- 4. Article 18 shall be revoked.
- 5. Everywhere in the Law the words “State/the State Commission” shall be replaced with “Interdepartmental/The Interdepartmental Commission”.

§ 24. The Law shall enter into force one month following its promulgation in the State Gazette. The fulfillment of the Law shall be assigned to the Council of Ministers, which shall pass regulations for its implementation within one month following the entering into force of this Law.

This Law was passed by the XXXIX National Assembly this 18th day of July, in the year 2002 and the official Seal of the National Assembly was affixed thereto.

Chairman of the National Assembly:
Ognyan Gerdzhirov

Unofficial translation

APPENDIX 6: REGULATION ON THE IMPLEMENTATION OF THE LAW ON THE CONTROL OF FOREIGN TRADE ACTIVITY IN ARMS AND DUAL-USE GOODS AND TECHNOLOGIES¹⁸⁷

Council of Ministers
Decree No 274
dated 29 November 2002

for passing Regulations on the implementation of the Law on Control of Foreign Trade Activities in Arms and Goods and Technologies with Potential Dual Use

THE COUNCIL OF MINISTERS HAS DECREED:

Single Article. Approves Regulations on the implementation of the Law on Control of the Foreign Trade Activities in Arms and Goods and Technologies with Potential Dual Use.

REGULATIONS on implementation of the Law on Control of Foreign Trade Activities in Arms and Goods and Technologies with Potential Dual Use

CHAPTER ONE

General provisions

Art 1. (1) These Regulations shall settle in accordance with the Law on Control of the Foreign Trade Activities in Arms and Goods and Technologies with Potential Dual Use the conditions and order for performance of foreign trade activities in arms and goods and technologies with potential dual use, the control of the State on these activities, the composition and the order of activity of the Interdepartmental Commission for Export Control and Non-Distribution of Mass Destruction Weapons with the Minister of Economy.

(2) The weapons and goods and technologies with potential dual use under para 1 shall be included in a list, passed by the Council of Ministers.

CHAPTER TWO

Foreign Trade Activities in Arms

Section I

General Provisions

Art 2. (1) Foreign trade activities in arms may be carried out only by commercial entities registered under the Commercial Code, which have received a license for such activities from the Interdepartmental Council on the Matters of the Military Industry Complex and Mobilization Preparedness of the Country with the Council of Ministers, called hereunder the Interdepartmental Council.

(2) The license for foreign trade activities in arms shall be issued initially for a term of one year, following the expiry of which each subsequent license shall be issued for a term of three years.

(3) The scope of the license under para 1 may be full or limited in respect of the items under the List of Weapons and Goods and Technologies with Potential Dual Use and/or in respect of the country – end user or exporter.

Art 3. The license is personal and may not be transferred or granted to other parties.

¹⁸⁷Source: Ministry of Economy

Art 4. (1) The entities which have received a license under Art 2 shall perform each foreign trade transaction in arms on the basis of a permit granted by the Interdepartmental Commission for Export Control and Non-Distribution of Mass Destruction Weapons with the Minister of Economy, called hereunder the Inter-Departmental Commission.

(2) The permit shall be issued within the scope of the license for a period of six months and may be extended once for a period of up to six months, while the term of the permit and its extension may not exceed the term of the license.

Art 5. Fees at an amount determined by the Council of Ministers shall be paid for the obtaining of a license for performance of foreign trade activities in arms and permit for each transaction. In case of suspension of the license and/or the permit the fees paid shall not be subject to reimbursement.

Section II

License for performance of foreign trade activities in arms

Art 6. (1) A license shall be issued to a commercial entity when it meets the requirements for reliability for performance of foreign trade activities in arms and is economically stable.

(2) The license under para 1 shall be issued in 2 copies as per form – appendix No 1. The first copy shall be provided to the applicant and the second one shall be kept with the Inter-Departmental Council.

(3) The commercial entities under para 1, applying for the granting of a license shall submit to the Interdepartmental Council the following documents:

1. An application as per form approved by the Interdepartmental Council;
2. A document of court registration and an original of court certificate of current status of the applicant, issued not earlier than 30 days from the filing of the applications and reflecting all changes of circumstances listed in the Commercial Register;
3. A document by the Ministry of the Interior that the applicant has established the required organization for storage of weapons in accordance with the requirements of the Law on Control on the Explosives, Firearms, and Ammunitions;
4. A document issued by the competent authorities that the applicant has established conditions for safeguarding the classified information representing state secret in the cases when this is necessary under the Law on Protection of Classified Information;
5. A list of individuals who shall participate directly in these activities coordinated with the security authorities, together with a curriculum vitae, job reference, certificate of no previous conviction and a sample signature for each;
6. A certificate of no previous conviction of the General Manager, the members of a Management or Control body of the commercial entity;
7. A copy of the documents certifying the tax registration and National Statistics Institute registration (BULSTAT code);
8. A certificate issued by the Territorial Tax Directorate or the Tax Division as per registration of the entity as to the absence of liquid and demandable public receivables or a certificate that the public receivables are deferred, rescheduled or secured;
9. A certificate from the social security funds of the state social security as to the absence of liquid or demandable receivables or a certificate that the receivables have been deferred, rescheduled or secured;
10. A declaration by the General Manager, by the members of a Management or Control body of the commercial entity that the entity does not have liquid and demandable payables to natural persons or legal entities, where the payable has been recognized to the body under enforced execution or where a court decision entered into force has been established, with a document certified by a Notary Public or with a promissory note;
11. A document as to the paid state fee.

Art 7. (1) The Interdepartmental Council shall pronounce on the applications within 30 days as of their filing.

(2) Upon finding of incompleteness in the presented documents within seven days as of the date of filing the documents, the Interdepartmental Council shall send notification to the applicant to eliminate the incompleteness while providing guidance as to their elimination. In this case the deadline under para 1 shall stop as of the date of sending the notification until elimination of the incompleteness.

(3) The decision as to granting a license or refusal shall be announced to the applicant within seven days from the date of taking the decision.

Art 8. The Interdepartmental Council shall notify the Ministry of the Interior, the Central Customs Department of Customs Agency and the Interdepartmental Commission within five working days as to the licenses issued and renewed.

Art 9. The commercial entities that obtained a license shall be obliged to inform the Interdepartmental Council as to any change in the circumstances under which the license has been issued within 14 days as of its occurrence and to present the respective document under Art 6, Para 3.

Section III

Permit for foreign trade activities in arms

Art 10. (1) A permit for foreign trade transaction for import or export of weapons shall be issued only to the commercial entities under Art 2 holding license for performance of such activities.

(2) The Interdepartmental Commission shall decide on the applications within 20 days as of their filing.

(3) Upon finding of incompleteness of the submitted documents the Interdepartmental Commission shall send notification to the applicant within seven days for elimination of the incompleteness while giving guidance as to their elimination. In this case the deadline under para 2 shall stop as of the date of sending the notification until elimination of the incompleteness.

(4) In case of necessity for performance of an inspection on the documents submitted, including an inspection via diplomatic channels, the Interdepartmental Commission may postpone for the next meeting the review and decision on the application for issuance of a permit within the deadline set out under para 2.

(5) The permit or refusal shall be announced to the applicant within seven days as of the date of taking the decision.

(6) The first copy of the issued permit shall be provided to the applicant, the second one shall be sent to Security National Authority with the Ministry of the Interior, the third copy shall be sent to the Central Customs Department of the Customs Agency and the fourth copy shall be kept with the Interdepartmental Commission.

Art 11. (1) The permit for a foreign trade transaction in arms shall be issued for a period of six months as of the date of issuance, which period may not exceed the period of the license.

(2) If a transaction allowed under the provisions of this Chapter shall not be executed within the deadline, the applicant may request extension of the deadline by means of a motivated written request not later than 15 days prior to its expiry, while specifying the portion of quantities not realized.

(3) The permit may be extended under the order of para 2 only once for a period of six months, which period may not be longer than the period of validity of the license.

Art 12. The Interdepartmental Commission shall inform the Ministry of the Interior and the Central Customs Department of the Customs Agency within five days as to the permits issued and extended.

Art 13. Following the drawing up of the customs documents on the last shipment with which the quantity allowed under the permit for export or import is exhausted, or following the term of validity, the applicant shall return the original of the permit to the Interdepartmental Commission within seven working days.

Art 14. (1) The permit may be used solely by the entity under Art 10, Para 1, to which it has been issued.

(2) The applicant shall be obliged to inform the Commission in writing within five days as to all changes in the conditions under which the transaction has been allowed.

(3) Following receipt of a permit for a specific transaction changes in the terms and conditions of the transaction may be made following the consent of the Interdepartmental Commission.

(4) The document evidencing the conclusion of a foreign trade transaction, which the applicant shall submit to the Interdepartmental Commission shall obligatorily include:

1. price;
2. parties on the transaction;
3. name of the goods;
4. quantity;
5. terms of delivery;
6. term of execution;
7. a provision for non-permission of re-export by the buyer and/or the end user without the written consent of the Interdepartmental Commission.

(5) If assessed so the Interdepartmental Commission may require from the applicant additional information, which is related to the foreign trade transaction.

A. *Import Permit*

Art 15. Foreign trade transaction for import of weapons shall be carried out on the grounds of an import permit issued by the Interdepartmental Commission. The permit shall be issued as per standard form in four copies – appendix No 2.

Art 16. (1) For obtaining weapons import permit the licensed commercial entity shall present to the Interdepartmental Commission the following documents:

1. standard form application filled-in – appendix No 3;
2. a permit filled-in in four copies;
3. a copy of the license for performance of foreign trade activities in arms issued by the Interdepartmental Council;
4. a copy of the license for performance of intermediary activities issued to the intermediary by the Interdepartmental Council if there is such under the transaction;
5. a copy and a certified translation into Bulgarian of a document issued by a competent authority of the country in which the exporter is registered, verifying its right to perform this type of activity under the exporter's national legislation;
6. a copy and certified translation into Bulgarian of the document verifying the foreign trade transaction (an agreement, proforma invoice, invoice, order, sample document, etc.), as well as all other agreements related to the execution of the transaction (for example, with the Bulgarian or the foreign partner – intermediary, forwarding company, transport company, end user or manufacturer);
7. written declaration by the importer and written declaration by the end user that the imported weapons shall not be re-exported or transferred to third individuals and/or legal entities without the permission of the Bulgarian competent authorities and that the weapons shall be used in observance of the effective Bulgarian legislation;
8. a copy of an end user certificate if such has been issued to the applicant as per request of the competent authorities of the country in which the exporter is registered;
9. a document on the state fee paid.

(2) The import permit issued shall be presented by the importer to the relevant customs office together with the customs declaration for the specific customs regime.

(3) The import shall be verified by means of copy of the customs declaration certified by the customs authority (Unified Administrative Document, UAD) and weapons import permit in which the number and date of the customs manifest and the number and date of the customs declaration shall be written under each separate shipment.

Art 17. (1) If the country of the exporter shall require from a Bulgarian importer an end user certificate it shall be issued in three copies as per standard form – appendix No 4, as follows:

1. by the Ministry of Defense – when the weapons are intended for the needs of the military forces;
2. by the Ministry of Economy – when the weapons are intended for production activity of the commercial entities or for the purpose of re-export;
3. By the Ministry of the Interior – when the weapons are intended for the needs of this Ministry or for the purpose of sales at the domestic market.

(2) The first copy of the certificate shall be provided to the applicant, the second one shall be sent to the Interdepartmental Commission, and the third copy shall be kept with the respective Ministry.

(3) The staff name list of the entities (the titular and the deputy) who have the right to sign end-user certificates under para 2, shall be approved by the Chairman of the Interdepartmental Council as per proposal of the respective Ministers. The specimen of the signatures shall be sent to the Interdepartmental Council, the Interdepartmental Commission, the Ministry of the Interior and the Ministry of Foreign Affairs.

Art 18. (1) If the country of the exporter shall require from a Bulgarian importer international import certificate, the latter shall be issued by the Interdepartmental Commission in two copies as per standard form – appendix No 5.

(2) The international weapons import certificate shall be issued by the Interdepartmental Commission within seven days based on the weapons import permit issued by the Interdepartmental Commission. The first copy of the certificate shall be provided to the applicant, the second shall be kept with the Interdepartmental Commission.

(3) the international import certificate shall be signed by the Secretary of the Interdepartmental Commission, and in his/her absence – by the Minutes keeping person of the Interdepartmental Commission. The specimens of their signatures shall be sent to the Interdepartmental Council, the Ministry of the Interior and the Ministry of Foreign Affairs.

Art 19. (1) To obtain a certificate under Art 17 or 18 the Bulgarian importer shall submit to the respective authority the following documents:

1. an application for receipt of a certificate with stated reasons as to its issuance (for the international import certificate the number of the issued import permit shall be specified as well);
2. an original and certified translation of a document issued by a competent authority of the country of the foreign exporter or by the foreign exported, or a copy and a certified translation of an agreement verifying the necessity of issuance of the certificate;
3. in the cases of issued of an end user certificate a document verifying the right of the end user to perform the activities for which the goods are imported, shall be presented;
4. filled-in copies of the certificate; the blank end user certificates shall be received from the respective Ministry under Art 17, Para 1, and the blank international import certificates – by Internationally Controlled Commerce Directorate with the Ministry of Economy.

(2) Registers shall be maintained for the issued certificates.

(3) The Ministries under Art 17, para 1 shall decide on the applications within 15 days as of the date of their submission.

(4) In case of finding of incompleteness of the submitted documents the bodies under Art 17 and 18 shall send a notice to the applicant to eliminate the incompleteness while giving guidance as to their elimination. In this case the deadline under para 2 shall stop as of the date of sending the notification until the elimination of the incompleteness.

(5) The issuance of a certificate or the refusal shall be announced to the applicant within three days as of the date of taking the decision.

(6) The first copy of the certificate under Art 17 shall be provided by the applicant to the foreign exporter within six months as of the date of its issuance.

(7) Following the expiry of six months as of the issuance of the certificate under Art 17 the importer shall send to the Interdepartmental Commission and to the respective Ministry information as to its provision to the foreign exporter. In case of non-provision within the specified period the applicant shall return the original of the certificate.

(8) The first copy of the certificate under Art 18 shall be provided by the applicant to the foreign exporter.

Art 20. (1) If the country of the exporter shall require a certificate for delivery made, the importer following processing of the goods with the respective customs authority shall present a filled-in certificate for delivery in three copies as per standard form – appendix No 6 while attaching a copy of the respective import permit thereto.

(2) The customs office processing the import of the goods shall certify the certificate within three days, and the first copy of the certificate for delivery made shall be provided to the applicant.

(3) The Central Customs Department of the Customs Agency shall send the second copy of the certificate for delivery made certified by it to the Interdepartmental Commission within 15 days of the date of certification, and the third copy shall be kept with the Central Customs Department of Customs Agency.

(4) The applicant shall receive the blank certificates of delivery made from the Interdepartmental Commission following the filing of an application with stated reasons as to the necessity of issuance of a certificate for delivery made.

B. Export Permit

Art 21. The foreign trade transaction for export of weapons shall be made on the grounds of an export permit issued by the Interdepartmental Commission. The permit shall be issued in four copies as per standard form – appendix No 7.

Art 22. (1) To obtain an export permit the licensed commercial entity shall submit to the Interdepartmental Commission the following documents:

1. filled-in application as per standard form – appendix No 3;
2. filled-in permit in four copies;
3. a copy of the license for performance of foreign trade activities in arms issued by the Interdepartmental Council
4. a copy of the license for performance of intermediary activities issued by the Interdepartmental Council to the intermediary, if there is such under the transaction;
5. a copy and a certified translation in Bulgarian of a document issued by a competent authority in the country of the foreign counterparty – importer verifying the right of the latter to perform this type of activity under the importer's national legislation;
6. an end user certificate and/or international import certificate in original issued by the competent authorities of the country of the end user and a certified translation of the certificate to Bulgarian;
7. a copy and a certified translation in Bulgarian of the document confirming the foreign trade transaction (an agreement, proforma invoice, invoice, order, document of samples, etc) as well as all other agreements related to the execution of the transaction (for example with the Bulgarian or foreign partner – intermediary, forwarder, transport company, end user or manufacturer);

8. a document on the state fee paid.

(2) The document certifying the conclusion of the foreign trade transaction obligatory shall include a provision for non-permission of re-export by the buyer and/or the end user without the written consent of the Interdepartmental Commission.

(3) To obtain a re-export permit apart from the documents required under para 1, the re-exporter shall present to the Interdepartmental Commission:

1. a re-export permit by the competent authority of the country from which the goods are imported;
2. when the competent authority of the country from which the goods are imported has not issued the document under point 1, this circumstance shall be declared by the re-exporter together with a declaration that there is no ban imposed for re-export by the country from which the goods are imported.

(4) The export permit shall be presented by the exporter to the respective customs office together with the customs declaration as to the specific customs regime.

(5) The export shall be verified by means of copies of the customs declaration (UAD) for the specific customs regime and the export permit certified by the customs office in which the number and date of the customs declaration shall be written under each separate shipment.

Art 23. The exporter shall be obliged to include in the foreign trade agreement a provision obliging the buyer and/or the end user not to make any re-export without the explicit consent of the Interdepartmental Commission.

Art 24. The applicant shall present to the Interdepartmental Commission a certificate for delivery made or an equivalent document issued by a competent authority in the country of the end user and confirming the realization of the delivery not later than three months as of the date of its arrival in the country of the end user.

Section IV

Transportation of weapons

Art 25. (1) The carriers registered under the Commercial Code shall transport weapons from and to the territory of the Republic of Bulgaria, as well as from and to the territory of third countries on the grounds of a license issued by the Interdepartmental Council. The license shall be issued in two copies as per standard form – appendix No 8, while the first copy shall be provided to the applicant, and second copy shall be kept with the Interdepartmental Council.

(2) The carriers under para 1, applying to obtain license for transportation of weapons shall present to the Inter-Departmental Council the following documents:

1. an application as per standard form approved by the Interdepartmental Council;
2. A document of court registration and an original court certificate of current status of the applicant, issued not earlier than 30 days from the filing of the applications and reflecting all changes of circumstances listed in the Commercial Register;
3. A document from the Ministry of the Interior stating that the applicant may render such transport services;
4. A document from the Marine Administration Executive Agency, Automobile Administration Executive Agency, Railway Administration Executive Agency, or Civil Air-Traffic Administration Central Directorate regarding the fitness of the transport vehicles for performance of this activity;
5. A document issued by the competent authorities that the applicant has established conditions for safeguarding of the classified information representing state secret in the cases when this is necessary under the Law on Protection of the Classified Information;
6. A list of individuals, who shall participate directly in these activities, coordinated with the security authorities, together with a curriculum vitae, job reference, certificate of no previous conviction and a sample signature for each;

7. A certificate of no previous conviction of the General Manager, the members of a Management or Control body of the commercial entity that the individuals have not been convicted of an offence of general nature;
8. A copy of the documents certifying the tax registration and National Statistics Institute registration (BULSTAT code);
9. A certificate issued by the Territorial Tax Directorate or the Tax Division as per registration of the entity as to the absence of liquid and demandable public receivables or a certificate that the public receivables are deferred, rescheduled or secured;
10. A certificate from the social security funds of the state social security as to the absence of liquid or demandable receivables or a certificate that the receivables have been deferred, rescheduled or secured;
11. A declaration by the General Manager, by the members of a Management or Control body of the commercial entity that the entity does not have liquid and demandable payables to natural persons or legal entities, where the payable has been recognized to the body under enforced execution or where a court decision entered into force has been established, with a document certified by a Notary Public or with a promissory note;
12. A document as to the paid state fee.

Art 26. (1) The Interdepartmental Council shall decide on the applications filed within 30 days from the date of filing.

(2) Upon finding of incompleteness in the presented documents within seven days as of the date of filing the documents, the Interdepartmental Council shall send notification to the applicant to eliminate the incompleteness while providing guidance as to its elimination. In this case the deadline under para 1 shall stop as of the date of sending the notification until elimination of the incompleteness.

(3) The decision as to granting a license or refusal shall be announced to the applicant within seven days from the date of taking the decision.

(4) Bulgarian carriers that have obtained a license for transportation of weapons and performing transportation of weapons between the territories of two separate third countries shall inform the Ministry of Transport and the notifications as to the starting and final destination, as to the route, as well as to the points of technical landing/stops within a period of not more than five days prior to the commencement of the transportation.

(5) The Ministry of Transport and Communications shall send within 2 days the information received to the Interdepartmental Council, the Interdepartmental Commission, the Ministry of the Interior and the Ministry of Foreign Affairs.

Art 27. (1) The license shall be issued initially for a term of one year and following its expiry each subsequent license shall be issued for a period of three years.

(2) The license shall be personal and may not be transferred or re-granted.

(3) The Interdepartmental Council shall refuse to issue a license when the documents under Art 25, Para 2 are not submitted after the provided period for addition of the documents and when the requirements under Art 25, para 2 are not existing, which the applicant must certify by means of the presented documents.

(4) The Interdepartmental Council shall deprive the license granted:

1. in case of non-fulfillment or in case of breach of the conditions of the license;
2. when the licensed entity has filed incorrect data which has serviced in the issuance of the license;
3. when the licensed entity stops meeting the requirements of Art 25, para 2.

(5) The Inter-Departmental Council shall terminate the license:

1. due to expiry of the term

2. upon its deprivation
3. as per request of the licensed entity
4. upon termination of the activity of the carrier.

Art 28. The foreign carriers and the companies using foreign carriers and/or transport vehicles shall present to the Ministry of Transport and Communications a document confirming their right to carry out transportation of weapons under their national legislation, a document of registration and a certificate of fitness of the transport vehicles by means of which the transport of weapons shall be carried out.

Art 29. Within five days the Interdepartmental Council shall inform the Ministry of Transport and Communications, the Ministry of the Interior, the Interdepartmental Commission and the Central Customs Department of the Customs Agency as to the licenses issued or renewed.

Section V

Permit for Transit Transport of Weapons

Art 30. (1) Transit transport of weapons shall be carried out on the grounds of a permit for transit transport for each separate case, issued by the Interdepartmental Commission. The permit shall be issued in four copies as per standard form – appendix No 9.

(2) The permit for transit transport of weapons shall specify the customs points, the route and the term for passing.

(3) For the issuance of the permit for transit transport the sender or a person authorized by it shall present to the Interdepartmental Commission the following documents:

1. a filled-in standard application approved by the Interdepartmental Commission;
2. a legalized copy and a certified translation in Bulgarian of the document issued by a competent authority of the country of the exporter, certifying its right to perform the specific transaction and the end user, and a certified translation in Bulgarian of the document;
3. a legalized copy and a certified translation in Bulgarian of the permit for transit transport or for acceptance on the territory of the country following the Republic of Bulgaria as per the route of the transit transport issued by its competent authorities.

(4) The documents shall be presented to the Interdepartmental Commission by the sender of the goods or by a person authorized by it not later than 20 days before the entering of the goods on the territory of the Republic of Bulgaria.

(5) The Interdepartmental Commission shall decide on the applications within ten days as of the date of their filing. The permission or the refusal shall be announced to the applicant within five days as of the pronouncement.

(6) The permit shall be valid under the conditions and until expiry of the period specified therein but for not more than 15 days as of the date of the entering of the goods in the entry customs office of the Republic of Bulgaria.

(7) The first copy of the permit shall be provided to the applicant, the second copy shall be sent to the Security National Service with the Ministry of the Interior, the third copy shall be sent to the Central Customs Department of the Customs Agency and the fourth copy shall be kept with the Interdepartmental Commission.

(8) Within ten days as of the date of certification of the transit transport the exit customs office shall send to the Interdepartmental Commission the copy of the permit which has been provided to the applicant.

CHAPTER THREE**Foreign Trade Activities with Goods and Technologies with Potential Dual Use***Section I***General Provisions**

Art 31. (1) Export of goods and technologies with potential dual use included in the list under Art 1, Para 3 of the Law, may be carried out by entities registered under the Commercial Code, that have obtained a license for such activities by the Interdepartmental Council.

(2) The scope of the license under para 1 may be full or limited in respect of the categories and items in accordance with the List of Weapons and Goods and Technologies with Potential Dual Use and/or in respect of the country – end user.

Art 32. The license shall be issued initially for a period of one year following the expiry of which each subsequent license shall be issued for a period of three years.

Art 33. (1) The export and import of goods and technologies with potential dual use shall be carried out on the grounds of a permit for each transaction issued by the Interdepartmental Commission. The import and export permits shall be issued within the scope of the license for a term of six months and may be extended only once for a period of up to six months, while the term of the permit and its extension may not be longer than the period of the license – in the case of export.

(2) If a transaction allowed under the provisions of this Chapter shall not be executed in due time, the applicant may request with a well-grounded written request extension of the term not later than 15 days prior to its expiry, while specifying the portion of unrealized quantities.

Art 34. To obtain a license for export of goods and technologies with potential dual use and a permit for each transaction fees at an amount defined by the Council of Ministers shall be paid. In case of deprivation of the license and/or of the permit the fees paid shall not be subject to reimbursement.

*Section II***Export License**

Art 35. (1) The entities registered under the Commercial Code shall be issued an export license for goods and technologies with potential dual use, when they are reliable and economically stable and when they have established the necessary organization for with the goods and/or technologies specified by them.

(2) The license under para 1 shall be issued in 2 copies as per standard form – appendix No 10. The first copy shall be provided to the applicant and the second one shall be kept with the Interdepartmental Council.

(3) The entities registered under the Commercial Code, applying for the granting of a license for export shall submit to the Interdepartmental Council the following documents:

1. A filled-in application for issuance of a license as per standard form approved by the Interdepartmental Council;
2. A document of court registration and an original court certificate of current status of the applicant, issued not earlier than 30 days from the filing of the application and reflecting all changes of circumstances listed in the Commercial Register;
3. A list of individuals, who shall participate directly in these activities, coordinated with the security authorities, together with a curriculum vitae, job reference, certificate of no previous conviction and a signature sample for each;
4. A certificate of no previous conviction of the General Manager, the members of a Management or Control body of the trader;
5. A copy of the documents certifying the tax registration and National Statistics Institute registration (BULSTAT code);

6. A certificate issued by the Territorial Tax Directorate or the Tax Division as per registration of the entity as to the absence of liquid and demandable public receivables or a certificate that the public receivables are deferred, rescheduled or secured;
7. A certificate from the social security funds of the state social security as to the absence of liquid or demandable receivables or a certificate that the receivables have been deferred, rescheduled or secured;
8. A declaration by the General Manager, and by the members of a Management or Control body of the commercial entity that the entity does not have liquid and demandable payables to natural persons or legal entities, where the payable has been recognized to the body under enforced execution or where a court decision entered into force has been established, with a document certified by a Notary Public or with a promissory note;
9. A document as to the paid state fee;
10. for nuclear and explosive materials, toxic chemical compounds, pathogenic and toxic biological agents and the equipment related thereto a document shall be required issued by a competent authority specified by the Inter-Departmental Council depending on the type of the goods an/or technology, that the applicant has established conditions and the required organization for export of the specific type of goods and/or technology in accordance with the requirements of the effective legislation.

Art 36. (1) The Interdepartmental Council shall pronounce on the applications within 30 days as of their filing.

(2) Upon finding of incompleteness in the presented documents within seven days as of the date of filing the documents, the Interdepartmental Council shall send notification to the applicant to eliminate the incompleteness while providing guidance as to its elimination. In this case the deadline under para 1 shall stop as of the date of sending the notification until elimination of the incompleteness.

(3) The decision as to granting a license or refusal shall be announced to the applicant within seven days from the date of taking the decision.

Art 37. The Interdepartmental Council shall notify the Ministry of the Interior, the Central Customs Department of Customs Agency and the Interdepartmental Commission within five working days as to the licenses issued and renewed.

Art 38. The entities registered under the Commercial Code that obtained a license shall be obliged to inform the Interdepartmental Council as to any change in the circumstances under which the license has been issued within 14 days as of its occurrence and to present the respective document under Art 35, para 3.

Section III

Permit for foreign trade transaction with goods and technologies with potential dual use

Art 39. (1) A permit for export of goods and technologies with potential dual use shall be issued by the Interdepartmental Commission only to the entities under Art 35, para 3 holding license for performance of such activities.

(2) The Interdepartmental Commission shall decide on the applications for permission of the foreign trade transaction within 20 days as of their filing.

(3) Upon finding of incompleteness of the submitted documents the Interdepartmental Commission shall send notification to the applicant within seven days as of the date of filing the application for elimination of the incompleteness while giving guidance as to its elimination. In this case the deadline under para 1 shall stop as of the date of sending the notification until elimination of the incompleteness.

(4) In case it is necessary to carry out an inspection of the documents submitted, including an inspection via diplomatic channels, the Interdepartmental Commission may postpone for next meeting the review and decision on the application for issuance of a permit within the deadline set out under para 2.

(5) The permit or refusal shall be announced to the applicant within seven days as of the date of taking the decision.

(6) The first copy of the issued permit shall be provided to the applicant, the second one shall be sent to Security National Authority with the Ministry of the Interior, the third copy shall be sent to the Central Customs Department of Customs Agency and the fourth copy shall be kept with the Interdepartmental Commission.

Art 40. (1) A permit may be used solely by the entity to which it has been issued.

(2) The applicant shall be obliged to inform the Commission in writing within five days as to all changes in the conditions under which the transaction has been allowed.

(3) Following receipt of a permit for a specific transaction changes in the terms and conditions of the transaction may be made following the consent of the Interdepartmental Commission.

(4) The document evidencing the conclusion of a foreign trade transaction, shall obligatory include:

8. price;
9. parties to the transaction;
10. name of the goods;
11. quantity;
12. terms of delivery;
13. term of execution;
14. a provision for non-permission of re-export by the buyer and/or the end user without the written consent of the Interdepartmental Commission.

Art 41. If assessed so the Interdepartmental Commission may require from the applicant additional information, which is related to the foreign trade transaction.

Art 42. Following customs clearance of the last shipment with which the allowed quantity under the permit for export or import is exhausted, or following expiry of the term of validity the applicant shall within seven days return the original of the permit to the Interdepartmental Commission.

Art 43. The Interdepartmental Commission shall inform the Ministry of the Interior, and the Central Customs Department of the Customs Agency within five working days as to the permits issued and extended.

A. *Import Permit*

Art 44. (1) Import of goods and technologies with potential dual use included in the list under Art 1, para 3 of the Law shall be carried out on the grounds of an import permit.

(2) The import permit shall be issued as per standard form in four copies – appendix No 11.

(3) To obtain import permit the applicants shall present to the Interdepartmental Commission the following documents:

1. standard form application filled-in – appendix No 3;
2. a permit filled-in in four copies;
3. A document of court registration and an original court certificate of current status of the applicant, issued not earlier than 30 days from the filing of the application and reflecting all changes of circumstances listed in the Commercial Register;
4. a copy and certified translation in Bulgarian of the document verifying the foreign trade transaction (an agreement, proforma invoice, invoice, order, sample document, etc.), as well as all other agreements related to the execution of the transaction (for example, with the Bulgarian or the foreign partner – intermediary, forwarding company, transport company, end user or manufacturer);

5. declaration by the importer and/or declaration by the end user by means of which it is obliged to inform in writing the Interdepartmental Commission within five days prior to each subsequent change of the end user on the territory of the Republic of Bulgaria;
6. a copy of the documents certifying the tax registration and the National Statistic Institute registration (BULSTAT code);
7. a copy of the license of the intermediary if there is such on the transaction for performance of intermediary activities issued by the Interdepartmental Council;
8. a document on the state fee paid.

(4) The import permit shall be presented by the importer in the respective customs office together with the customs declaration for the specific customs regime.

(5) The import shall be verified by means of copy of the customs declaration certified by the customs authority (UAD) and import permit in which the number and date of the customs manifest and the number and date of the customs declaration shall be written under each separate shipment.

Art 45. (1) If the country of the exporter shall require by the importer an end use/end user certificate and/or international import certificate it shall be issued under the terms and provisions of Art 17-19, as follows:

1. by the Ministry of Defense – when the goods and/or technologies are intended for the needs of the military forces;
2. by the Ministry of Economy – when the goods and/or technologies are intended for production activity of the commercial entities or for the purpose of re-export and sale in the country;
3. by the Ministry of the Interior – when the goods and/or technologies are intended for the needs of this Ministry.

(2) The end use/end user certificate shall be issued in standard form – appendix No 12.

Art 46. If the country of the exporter shall require certificate of delivery made of goods and technologies with potential dual use, the certificate shall be issued under the terms and provisions of Art 20.

B. Export Permit

Art 47. The export of goods and technologies with potential dual use shall be made on the grounds of an export permit issued by the Interdepartmental Commission. The permit shall be issued in four copies as per standard form – appendix No 13.

Art 48. (1) To obtain an export permit the applicant shall submit to the Interdepartmental Commission the following documents:

1. filled-in application as per standard form – appendix No 3;
2. filled-in permit in four copies;
3. a copy of the license for performance of foreign trade activities with goods and technologies with potential dual use;
4. an end user certificate and/or international import certificate in original issued by the competent authorities of the country of the end user and a certified translation of the certificates in Bulgarian;
5. a copy and a certified translation in Bulgarian of the document confirming the foreign trade transaction (an agreement, proforma invoice, invoice, order, document of samples, etc.) as well as all other agreements related to the execution of the transaction (for example with the Bulgarian or foreign partner – intermediary, forwarder, transport company, end user or manufacturer);
6. a copy of the license of the intermediary if there is such under the transaction for performance of intermediary activities issued by the Interdepartmental Council;
7. a document on the state fee paid.

(2) To obtain a re-export permit apart from the documents required under paragraph 1, the re-exporter shall present to the Interdepartmental Commission:

1. a re-export permit by the competent authority of the country from which the goods are imported;
2. when the competent authority of the country from which the goods are imported has not issued the document under point 1, this circumstance shall be declared by the re-exporter together with a declaration that there is no ban imposed for re-export by the country from which the goods are imported.

(3) The export permit shall be presented by the exporter to the respective customs office together with the customs declaration as to the specific customs regime.

(4) The export shall be verified by means of copies of the customs declaration (UAD) for the specific customs regime and the export permit certified by the customs office in which the number and date of the customs declaration shall be written under each separate shipment.

Art 49. The applicant shall present to the Interdepartmental Commission a certificate for delivery made or an equivalent document issued by a competent authority in the country of the end user and confirming the clearance of the goods not later than three months as of the date of its arrival in the country of the end user.

Section IV

Permit for Transit Transport

Art 50. (1) Transit transport through the territory of the Republic of Bulgaria of radioactive, explosive, flammable, oxidizing, corrosive, bacteriological (biological), toxic and pathogenic goods included in the list under Art 1, para 3 of the Law shall be carried out on the grounds of a permit for transit transport for each separate case, issued by the Interdepartmental Commission.

(2) The permit under para 1 shall be issued in four copies as per standard form – appendix No 14.

(3) The permit for transit transport shall specify the customs points, the route and the term for passing.

(4) For the issuance of the permit for transit transport the sender or a person authorized by it shall present to the Interdepartmental Commission the following documents:

1. a filled-in standard application approved by the Interdepartmental Commission;
2. a legalized copy of a document issued by a competent authority of the country of the exporter, certifying its right to perform the specific transaction and the end user, and a certified translation in Bulgarian of the document;
3. a legalized copy and a certified translation in Bulgarian of the permit for transit transport or for acceptance on the territory of the country following the Republic of Bulgarian as per the route of the transit transport issued by its competent authorities.

(5) The documents shall be presented to the Interdepartmental Commission by the sender of the goods or by a person authorized by it not later than 20 days before the entering of the goods on the territory of the Republic of Bulgaria.

(6) The Interdepartmental Commission shall decide on the applications within ten days as of the date of their filing. The permission or the refusal shall be announced to the applicant within five days as of the pronouncement.

(7) The first copy of the permit shall be provided to the applicant, the second copy shall be sent to the Security National Service with the Ministry of the Interior, the third copy shall be sent to the Central Customs Department of Customs Agency and the fourth copy shall be kept with the Interdepartmental Commission.

(8) The permit shall be valid under the conditions and until expiry of the period specified therein but for not more than 15 days as of the date of the entering of the goods in the entry customs office of the Republic of Bulgaria.

(9) The exit customs office within ten working days as of the date of certification of the transit transport shall send to the Interdepartmental Commission the copy of the permit which has been provided to the applicant.

CHAPTER FOUR

Intermediary Activities Related to Foreign Trade Transactions In Arms or Goods and Technologies with Potential Dual Use

Art 51. (1) Intermediary activities related to foreign trade transactions in arms and/or goods and technologies with potential dual use from and to the territory of the Republic of Bulgaria may be carried out by natural persons and legal entities who have obtained license for the performance of such activities by the Interdepartmental Council.

(2) The Interdepartmental Council shall issued license for intermediary activities related to foreign trade transactions in arms as per standard form – appendix No 15 and a license for intermediary activities related to foreign trade transactions with goods and technologies with potential dual use as per standard form – appendix No 16.

(3) The license for intermediary activities shall be issued initially for a term of one year, following the expiry of which each subsequent license shall be issued for a term of three years.

(4) The license shall be issued in two copies – the first copy of the license shall be provided to the applicant and the second copy shall be kept with the Interdepartmental Council.

(5) The scope of the license under para 1 may be full or limited in respect of the items or categories under the List of Weapons and Goods and Technologies with Potential Dual Use and/or in respect of the country – end user or exporter.

Art 52. (1) To the entities under Art 51 a license shall be issued when they meet the requirements for reliability for the performance of intermediary activities and are economically stable in accordance with the Regulations.

- (2) The Bulgarian persons shall be considered reliable for the performance of intermediary activities if:
1. they are capable
 2. if the natural person or the general manager, members of a management and control body of the legal entity have not been convicted for committing a general nature offence;
 3. there is no data that the natural person, or the general manager or the members of a management or control body of the legal entity, or the natural person (persons) who directly participate in the intermediary activity represent a threat to the national security, the economic or foreign policy interests of the Republic of Bulgaria, the strengthening of international peace and security and the fulfillment of the international obligations of the Republic of Bulgaria.
- (3) The Bulgarian persons shall be considered economically stable if:
1. the legal entities are not undergoing liquidation or bankruptcy proceedings;
 2. do not have liquid and demandable public payables to the Bulgarian state and payables to the state social security funds.
- (4) The foreign persons shall be considered reliable for the performance of intermediary activities if:
1. they have the right to perform such activities under their national legislation;
 2. there is no data that the natural person, or the general manager, the members of a management or control body of the legal entity, or the natural person (persons) who directly participate in the intermediary activity represent a threat to the national security, the economic or foreign policy interests of the Republic of Bulgaria, the strengthening of international peace and security and the fulfillment of the international obligations of the Republic of Bulgaria.

(5) The foreign persons shall be considered economically stable for the performance of intermediary activities when they do not have liquid and demandable payables to natural persons or legal entities, where the payable is recognized to the authority on enforced execution or when it is established by virtue of court decision entered into force, with a document certified by a Notary Public or by means of a promissory note.

(6) The foreign persons shall have the right to authorize Bulgarian persons to represent them under the procedure on issuance of a license by the Interdepartmental Council.

Art 53. (1) The Bulgarian persons under Art 51, applying to obtain a license shall present to the Interdepartmental Council the following documents:

1. An application as per standard form approved by the Interdepartmental Council;
2. A certified copy of the identity document of the natural person or a document of court registration and an original court certificate of current status of the applicant, issued not earlier than 30 days from the filing of the applications and reflecting all changes of circumstances listed in the Commercial Register;
3. A list of individuals, who shall participate directly in these activities, coordinated with the security authorities, accompanied with a curriculum vitae and job reference, certificate of no previous conviction and a sample of the signature;
4. A certificate of no previous conviction of the General Manager, the members of a Management or Control body of the commercial entity or of the natural person;
5. Copies of the documents certifying the tax registration and National Statistics Institute registration (BULSTAT code);
6. A certificate issued by the Territorial Tax Directorate or the Tax Division as per registration of the trader as to the absence of liquid and demandable public receivables or a certificate that the public receivables are deferred, rescheduled or secured;
7. A certificate from the social security funds of the state social security as to the absence of liquid or demandable receivables or a certificate that the receivables have been deferred, rescheduled or secured;
8. A document as to the paid state fee.

(2) The foreign persons under Art 51 applying to obtain license for intermediary activities, shall submit to the Interdepartmental Council the following documents:

1. An application as per standard form approved by the Interdepartmental Council;
2. A copy and a certified translation in Bulgarian of the identity document of the natural person;
3. A copy and a certified translation in Bulgarian of a document issued by a competent authority confirming the right of the person to perform this type of activity under its natural legislation;
4. A declaration by the General Manager, the members of management or control body of the legal entity, of the natural person or of a person authorized by them as to the absence of liquid or demandable payables to natural persons or legal entities where the payable is recognized by the enforced execution authority or when it is established by virtue of a court decision entered into force or with a promissory note;
5. a document ad to the state fee paid.

Art 54. (1) The Interdepartmental Commission shall give an opinion on the applications under Art 53 within ten days after their sending to the commission.

(2) The Interdepartmental Commission shall send to the Interdepartmental Council its opinion and the filed documents within three days as of the date of the pronouncement.

(3) The Interdepartmental Council shall pronounce on the application under Art 53 within 30 days as of their submission.

(4) Upon finding of incompleteness in the presented documents within seven days as of the date of filing the documents, the Interdepartmental Council shall send notification to the applicant to eliminate the incompleteness while providing guidance as to its elimination. In this case the deadline under para 1 shall stop as of the date of sending the notification until elimination of the incompleteness.

(5) The decision as to granting a license or refusal shall be announced to the applicant within seven days from the date of taking the decision.

Art 55. The Interdepartmental Council shall notify the Ministry of the Interior, the Central Customs Department of Customs Agency and the Interdepartmental Commission within five working days as to the licenses issued and renewed.

Art 56. The persons under Art 51 that obtained a license shall be obliged to inform the Interdepartmental Council as to any change in the circumstances under which the license has been issued within 14 days as of its occurrence and to present the respective document under Art 53.

CHAPTER FIVE

Composition and Order of the Activity of the Interdepartmental Commission

Section I

General Provisions

Art 57. The Interdepartmental Commission:

1. shall pass decisions as to granting of permission or refusal to grant permission for:
 - a) foreign trade transactions in arms and with goods and technologies with potential dual use;
 - b) transit transportation of weapons through the territory of the Republic of Bulgaria;
 - c) transit transportation of radioactive, explosive, flammable, oxidizing, corrosive, bacteriologic (biologic), toxic and pathogenic goods with potential dual use through the territory of the Republic of Bulgaria, included in the List of Weapons and of the Goods and Technologies with Potential Dual Use;
 - d) foreign trade transactions with toxic chemical substances and their precursors, specified in the appendices to the Law on Prohibition of Chemical Weapons and on Control of Toxic Chemical Substances and Their Precursors;
2. shall inform the Ministry of the Interior, and the Central Customs Department of the Customs Agency as to the permits issued and extended;
3. shall present to the Council of Ministers an annual report on the fulfillment of the Law not later than six months following the expiry of the calendar year covered by the report.
4. shall present to the Council of Ministers a draft of a Decree for the updating of the List of Weapons and Goods and Technologies with Potential Dual Use;
5. shall co-ordinate the work and shall control the fulfillment of the Convention on Prohibition of the Development, Production, Accumulation and Use of Chemical Weapons and of its destruction and shall perform control and permission functions as to the application of the Law on Prohibition of the Chemical Weapons and Control on Toxic Chemical Substances and Their Precursors;
6. shall submit to the Council of Ministers proposals as to the introduction of limitations and imposing of bans on the goods and technologies with potential dual use under Art 4, Para 1, item 2 of the Law.

Art 58. (1) the activity of the Interdepartmental Commission shall be assisted administratively by the Internationally Controlled Trade Directorate with the Ministry of Economy.

(2) The Internationally Controlled Trade Directorate with the Ministry of Economy shall prepare opinions as to whether certain goods fall within the List of Weapons and Goods and Technologies with Potential Dual Use under Art 1, para 3 of the Law upon an inquiry by the state authorities or persons

performing foreign trade activities. The opinions under this paragraph shall be signed by the Director of the Internationally Controlled Trade Directorate or by officials authorized by him.

Section II

Composition of the Interdepartmental Commission

Art 59. (1) The Interdepartmental Commission shall include a chairman and six members and shall be assisted by a secretary and minutes keeper.

(2) Chairman of the Interdepartmental Commission shall be the Minister of Economy.

(3) Members of the Interdepartmental Commission shall be:

1. two representatives of the Ministry of Economy;
2. a representative of the Ministry of the Interior;
3. a representative of the Ministry of Foreign Affairs;
4. two representatives of the Ministry of Defense.

(4) Secretary of the Interdepartmental Commission shall be the Director of the Internationally Controlled Trade Directorate within the Ministry of Economy.

(5) Minutes keeper of the Interdepartmental Commission shall be an employee of the Internationally Controlled Trade Directorate within the Ministry of Economy.

(6) The members of the Interdepartmental Commission, the secretary and the minutes keeper shall be approved on a name-by-name basis by the Chairman of the Interdepartmental Commission as per proposal of the respective ministers.

Art 60. The Chairman:

1. shall summon and chair the meetings of the Interdepartmental Commission;
2. shall organize and manage the work of the Interdepartmental Commission.

Art 61. The members of the Interdepartmental Commission:

1. shall participate in the meetings of the commission personally;
2. shall have the right of access to the provided documents and to the minutes and other materials filed at the Commission.

Art 62. The Secretary of the Interdepartmental Commission:

1. shall organize the preparation for its meetings;
2. shall report and shall present at meetings of the Interdepartmental Commission the documents filed under the agenda;
3. shall monitor the fulfillment of the decisions of the Interdepartmental Commission;
4. shall organize the document flow related to the activities of the Interdepartmental Commission.

Art 63. The Minutes Keeper of the Interdepartmental Commission:

1. shall assist the secretary in the organization of the preparation of the meetings of the Interdepartmental Commission and the documents flow related to the activities of the Interdepartmental Commission;
2. shall inform the members of the Interdepartmental Commission as to the upcoming meeting not later than three days prior to each meeting;
3. shall prepare the minutes from the meetings of the Interdepartmental Commission;

4. shall monitor the fulfillment of the decisions of the Interdepartmental Commission.

Section III

Order of activities

Art 64. The meetings of the Interdepartmental Commission shall be closed. If assessed so by the Interdepartmental Commission specialists-experts may be summoned to the meetings, who shall provide opinions on matters on which specialized knowledge shall be required.

Art 65. (1) The Interdepartmental Commission shall be summoned to regular meetings not less than twice per month.

(2) An extraordinary meeting may be summoned by the Chairman of the Interdepartmental Commission if there is a consensus between its members. In case of justified impossibility of a certain member of the Interdepartmental Commission to attend the meeting the right to vote may be exercised without his presence. In this case the vote shall be expressed in writing and shall represent an integral part of the minutes from the meeting. By exception the decisions of the Inter-Departmental Commission may be passed in absence if the minutes are signed without remarks by its members.

(3) The decisions of the Interdepartmental Commission may be passed also in absence as per initiative of the Chairman of the Interdepartmental Commission or under a decision of the Commission.

(4) In case of a proposal to refuse the permission of a certain transactions the member of the Inter-Departmental Commission shall indicate the specific facts and grounds which justify the refusal.

Art 67. (1) The agenda of a meeting of the Interdepartmental Commission shall be offered by the Chairman and shall be accepted by the Commission.

(2) The materials on the agenda of the meetings shall be provided to the members of the Inter-Departmental Commission or their representatives specified by the respective authorities as per list approved by the Chairman of the Interdepartmental Commission.

(3) The members of the Interdepartmental Commission shall be informed regarding the upcoming meeting at least three days before the meeting.

(4) In the agenda by exception issues for discussion may be included with the exception of decisions for permission of foreign trade transactions in arms or goods and technologies with potential dual use, which are of urgent nature as the materials on them shall be presented at the meeting.

(5) As per decision of the Interdepartmental Commission the Secretary shall send documents to obtain opinions of other state authorities.

Art 68. (1) For each transaction the Interdepartmental Commission shall pass a separate protocol decision. The protocol decision shall contain the requisites under Art 15, para 2 of the Law on Administrative Proceedings. The minutes with the decisions shall be signed by the Chairman, the members, the secretary and the minutes keeper of the Interdepartmental Commission.

(2) The decisions of the Interdepartmental Commission shall be announced to the interested parties within the deadlines specified in the Regulations under the order provided for by the Law on Administrative Proceedings.

Section IV

Relations with other state authorities

Art 69. (1) Upon the performance of its functions the Interdepartmental Commission shall interact with other state authorities by:

1. participating in joint inspections;
2. exchange of information
3. holding of joint meetings.

*Section V***Order on the filing of documents**

Art 70. The documents which shall be presented to the Interdepartmental Commission for the granting of a permit for a foreign trade transaction in arms and goods and technologies with potential dual use and to obtain permit for transit transportation of weapons and goods with potential dual use shall be accepted, registered and kept by the Internationally Controlled Trade Directorate of the Ministry of Economy or by the security unit of the Ministry of Economy in separate premises and registers shall be kept.

Art 71. (1) Access to the documents filed for the issuance of permits shall have only the members of the Interdepartmental Commission and their representatives, as well as experts from the Internationally Controlled Trade Directorate and the officer from the security unit of the Ministry of Economy identified under a list approved by the Interdepartmental Commission Chairman.

(2) The members of the Interdepartmental Commission, the officers as well as the attracted specialists-experts under Art 64 shall be obliged not to disclose circumstances and facts, which they became aware of during or in relation of the fulfillment of their duties under the law or under the regulations, except under a written request of a state authority when this is provided for by law.

Art 72. 91) The decisions under appendices No 2, 7, 9, 11, 13 and 14 or the notification letter as to the refusal for issuance of a permit shall be signed on the grounds of the respective protocol decision under Art 68, para 1 by the secretary of the Interdepartmental Commission, and in his absence – by the minutes keeper.

(2) Access to information received including by the respective information systems and by the respective databases related to the foreign trade transactions in arms and goods and technologies with potential dual use, shall have the persons under Art 71, para 1.

(3) The administrators servicing the information systems under para 2 shall be approved by the Chairman of the Interdepartmental Commission. The access of the administrators to the information systems and the work on them shall be registered in a respective ledger in the Internationally Controlled Trade Directorate.

Art 73. The permit shall be handed to the person following presentation of payment documents on the fees paid.

Art 74. The refusal for issuance of a permit shall be recorded in writing and the documents shall be returned to the applicant. The decision for a refusal together with copies of the documents thereto shall be kept with the Internationally Controlled Trade Directorate with the Ministry of Economy or by the officer in the security unit within the Ministry of Economy.

Art 75. The issued permits and the refusals for issuance of a permit shall be sent via the formal channels to the Ministry of the Interior and the Central Customs Department of the Customs Agency. Notification shall be sent to the applicants within the deadlines specified under the regulations.

CHAPTER SIX**Obligations of the Persons Performing Foreign Trade Activities in Arms and Goods and Technologies with Potential Dual Use**

Art 76. The persons performing foreign trade activities in arms and goods and technologies with potential dual use and the intermediaries shall be obliged to observe the conditions under which this activity has been allowed and shall inform the control authorities as to any change in the circumstances under which their activity has been allowed.

Art 77. (1) The persons performing foreign trade activities in arms and goods and technologies with potential dual use and the Bulgarian persons performing intermediary activities shall be obliged to maintain a register on the transactions which are concluded under the law, as per standard form – appendix 17.

(2) Upon request the persons under para 1 shall be obliged to present the register to the control authorities.

(3) The persons under para 1 shall keep the trade and transport documents and the information related to the execution of a foreign trade transaction for not less than ten years.

Art 78. The persons performing foreign trade activities in arms and goods and technologies with potential dual use and the intermediaries shall be obliged upon request of the Interdepartmental Commission to present:

1. data regarding the employees responsible for the execution of the transaction;
2. description of the item – subject of the foreign trade transaction, the license rights, as well as potential limitations for export to third countries related thereto;
3. information on the concluded foreign trade transactions and their realization as per permits granted;
4. if assessed by the Interdepartmental Commission or by another control authority under the law additional information regarding the foreign trade transaction may also be requested in accordance with the powers of the authority.

Art 79. Control on the foreign trade activity in arms and with goods and technologies with potential dual use shall be carried out by the Interdepartmental Council, the Interdepartmental Commission, the Ministry of Economy, the Ministry of the Interior and by the Customs Agency or by officials authorized by them in accordance with the powers vested therein.

Art 80. The control authorities if necessary may request the opinion of other state authorities which shall provide the requested opinion within 15 days as of the date of its sending.

Art 81. The control authorities may exchange information necessary for the performance of control with the competent authorities of other state, international organizations and export control regimes in execution of international agreements. The exchange of information shall be carried out through the Internationally Controlled Trade Directorate of the Ministry of Economy.

Art 82. The control authorities, the authorized officials as well as the attracted specialists shall be obliged not to disclose the official, production or commercial secret of the reviewed persons.

ADDITIONAL PROVISIONS

§ 1. (1) No permit shall be required for import and export under the order provided for in the Regulations upon the receipt and sending of goods and technologies with potential dual use, upon the execution of undertaken obligations of the Republic of Bulgaria under international conventions, organization and regimes for non-distribution of mass destruction weapons, when the recipient of the import shall be a ministry or an authority responsible for the execution thereto, and the recipient in case of export shall be the respective international organization, regime or authority on the execution of a convention for non-distribution of mass destruction weapons.

(2) No license for export of goods and technologies with potential dual use shall be required in the cases of demonstrations, certification, participation in an exhibition, when upon the import of the goods and technologies with potential dual use a customs regime of a temporary import is established for the initial sender within six months as of the date of their import.

§ 2. The samples under appendices No 4, 5, 6 and 12 shall be unsealed by the Interdepartmental Council while the sample shall be included in a register.

TRANSITIONAL AND CONCLUDING PROVISIONS

§ 3. (1) The validity of the licenses and permits issued before the entering into force of these Regulations, shall continue until its expiry.

(2) The applications filed for issuance of licenses and/or permits filed not later than five days prior to the entering into force of these regulations shall be reviewed and issued under the terms and order provided for by the Regulations on Implementation of the Law on Control of the Foreign Trade Activity in Arms

and Goods and Technologies with Potential Dual Use passed by virtue of Decree No 38 of the Council of Ministers dated 1996.

(3) No licensing shall be required for the intermediaries under agreement for which there are permits already issued.

§ 4. The Regulations shall be passed on the grounds of § 24 of the transitional and concluding provisions of the Law on Amendment and Supplementation of the Law on the Control of Foreign Trade Activity in Arms and in Dual-Use Goods and Technologies (State Gazette, issue 75 dated 2002)

