

CURRENT STATUS OF THE ALBANIAN LEGISLATION ON THE STATE'S CONTROL OF EXPORTS OF MILITARY GOODS

According to the Albanian Legislation actually, the export-import of military equipments is controlled by the State, through the Ministry of Defense (MoD).

The right authority that is entitled to issue the permissions for export, import and the End-User Certificate of Military Goods is the General Secretary in the Ministry of Defense.

Currently in Albania, MEICO (Military Export Import Company) is only company that operates in the export-import of Military Equipments, established with a decision of the Council of Ministers. Reference made on Table 1. No. 1, "On the Foundation of the Import -Export Enterprise in depending of the Ministry of Defense".

MEICO is licensed to import and export military goods only for the interests of the Albanian Armed Forces, and other institutions like Ministry of Interior and other Special Security Forces in the Republic of Albania. It has a big experience more than 15 years working in this field, and it has so many partners over the world.

The regulatory on exports of military goods has been enriched in the previous years with the best practice of EU countries and US:

I can mention in this regards - request of End-User certificate and modality on checking the authenticity of those; is a common practice; - Adding the requirement of non re-transferring of goods to other than end user.

Of course these measures are implemented together of standard requirements concerning: the nations under embargo; verifying the license dealer; applying the requirements of EU code of conduct.

The procedure of issuing the import-export permission and the End-User certificate start with the signing of the contract by MEICO with the foreign partners. The next step at the application form is the request of MEICO to the General Secretary to issues these permissions and the End User according to the Order Nr. 5, date 08.01.2002 of Minister of Defense "On the functioning of the army's import-export company, MEICO, and its relations with other departments and units in the Ministry of Defense". Reference made on Table 1. Chart of Legal Framework for State's Control of Exports No. 5. The General Secretary has to check the value of the goods and the Countries where the goods are destined if there are under Embargo throwing the Ministry of Foreign Affairs.

Further clearance reports is required from State's authorities (National Intelligence Agency) and different Embassies in Albania. After this procedure, the General Secretary issues the permit of export, import and the End-User certificate for a limited period of time for each transaction.

The Republic of Albania as adopted the EU Code of Conduct on Arms Transfer, with a decision of the COM. (Reference made on Table 1. Chart of Legal Framework for State's Control of Exports, No 8.

The priority stated by the government in adopting the EU CODE OF CONDUCT has been materialized by drafting a new law that regulates the transfer of military goods and goods with dual use.

This new law is in full accordance with EU requirements and has been largely discussed with all international relevant organization.

The MOD has prepared a draft law "On State Control of International Transfers of Military and Dual Use Goods" and got preliminary approval from other Ministries. Actually this draft law it is under the approval procedures.

I would like to give briefly cover the contents of this law for you:

- The adoption of the Law of Albania "On State Control of International
- Transfers of Military and Dual-Use Goods" will be the principal event in the area of export control in Albania at 2007.
- The Law will considerably increase the transparency of Albania's export control system: the law has made the system more comprehensible to business and clearly outlined the state's relevant functions.

The Law states:

- Principles of the state export control policy;
- Procedures and entities in order to obtain licenses for international transfers of goods subject to export control;
- Mechanism of counteracting violations in the area of export control;

It is important from the standpoint of either transparency or efficiency that the Law defines the duly authorized state export control body. Such body is the State Export Control Agency of Albania. It is granted an independent status and broad functions and powers in the area of export control.

The Law has provisions regulating the issues of brokerage with regard to trade in military and dual-use goods.

According to the Law intermediary (brokerage) activity is defined as "any actions by a business entity of Albania that assist implementation of

international transfers of goods designated for military purpose, including actions related to financing, transporting or expediting shipments, irrespective of the origin of such goods and territory on which such activity is conducted."

The Law states that licenses for transfers of military and dual-use goods may be granted only to those entities which are registered with the State authority of Export Control.

The Law provides legal basis for the system of intra-firm export control, which implies measures taken by business entities for providing compliance with export control legislation.

The Law has increased responsibility of business entities for violations of Export control regulations:

- Companies are not allowed to conclude contracts for international transfers of goods if they have information that such goods may be used by a foreign state or foreign business for creation of weapons of mass destruction or means of their delivery.
- A company must refuse to fulfill a contract for international transfer of goods if there comes information that the goods will be used (a) for other purposes than those declared in the contract or related documents or (b) by another End-User than the one stated in the contract or related documents.

The Law has provisions that promote effective counteraction of violations in the area of export control.

To prevent violations of export control legislation, the State authority of Export Control as well as other state bodies, within the limits of their authority, is enabled to perform investigations, including control of delivery of goods to end-users and check-ups of the actual use of goods with regard to the declared purposes.

From the standpoint of export control efficiency, it is critically important to have the appropriate inter-agency information exchange in force. The Law puts the State authority of Export Control in the center of the scheme of inter-agency exchange of information on issues related to export control.

In case of detecting violations of export control regulations the state bodies are to inform the State authority of Export Control where of.

If there is sufficient information about any person's or company's intention to commit or about an actual fact of committing a crime relating to illegal actions with goods subject to export control, the State authority of Export Control will inform where of the relevant enforcement authorities.

According to the Law violations of export control legislation include, inter-alia, as follows:

- Exercising international transfers of goods subject to export control without obtaining appropriate licenses;
- Performing international transfers of controlled goods by licenses obtained as result of submitting counterfeit documents or documents containing false information;
- Concluding contracts for international transfers of any goods whatsoever if there comes information that such goods may be used by a foreign country or foreign business for creation of weapons of mass destruction or means of their delivery;
- Performing international transfers of controlled goods irrespective of having obtained information that the goods shipped will be used for purposes other than those declared in the contract or related documents;
- Deliberate concealment of information that could influence the decision as to granting a license;

The State Agency of Export Control is empowered to impose fines on entities for violations of export control legislation.

The amount of the fines is established in the way which makes it unprofitable to the entities to break the Law.

Apart from fines, the State Agency of Export Control may cancel or revoke a license or cancel registration of a business that has violated the Law—depending on the type and scale of the committed violation. This method is even more effective than fines.

After the adoption of the Law, relevant changes should make in the Criminal Code of Albania. These changes will provide a higher level of responsibility for violating export control regulations.

Current Legislation related to State's Control of Exports of Military Goods.

Table 1. Chart of Legal Framework for State's Control of Exports

No	DATE	LEGAL REFERENCE	TITLE
1	05 October 1991	COM ¹ No. 366	On the foundation of the import-export enterprise [depending] on the Ministry of Defense.
2	01 May 1992	COM Decision No. 135	On the approval of the sale of weapons and ammunitions by the Ministry of Defense.
3	25 June 1992 ²	COM Decision No. 275	On the administration and controls for weapons of individuals, legal persons and entities.
4	06 June 1994 ³	COM Decision No. 365	On the destruction or selling of ammunitions for which the period of use is coming to an end or has already expired and on the selling of surplus armaments and ammunitions and its amendments.
5	10 August 1996	COM Decision No. 366	On selling armaments and ammunition. (nuk ekziston)
6	08 January 2002	MoD Regulation No. 05	On the functioning of the army's import-export company, MEICO, and its relations with other departments and units in the Ministry of Defense.
7	04 December 2002. ⁴	COM Decision No. 617	On the removal of armaments, parts of weapons and military equipment from the Armed Forces for their destruction, dismantling and selling', and related regulations.

¹ Council of Ministers

² COM Decision No. 389, 'On some supplements to the COM Decision No. 275', 6 August 1993.

³ Council of Ministers (COM) Decision No. 822, 'On an amendment to COM Decision No. 365', 9 December 1996; COM Decision No. 564, 'On an amendment to COM Decision No. 365', 22 December 1997; COM Decision 829, 'On an amendment to COM Decision No. 365', 30 December 1998; COM Decision No. 344, 'On an amendment to COM Decision No. 365', 7 July 2000; COM Decision No. 113, 'On an amendment to COM Decision No. 365', 8 March 2001; COM Decision No. 17, 'On an amendment to COM Decision No. 365', 28 January 2002; COM Decision No. 1, 'On an amendment to COM Decision No. 365', 10 January 2003.

Table 1. Chart of Legal Framework for State's Control of Exports			
No	DATE	LEGAL REFERENCE	TITLE
8	28 August 2003	COM Decision No.604	EU Code of Conduct on Arms Transfer.

⁴ Regulation No. 485/1, 'On the procedure for the auction of military equipment, which have been removed from use, as defined in the COM Decision No. 617', 14 October 2003; Regulation No. 495/2, 'On the procedure for the auction of military equipment, which have been removed from use, as defined in the COM Decision No. 617', 21 October 2003.