

REPUBLIC OF LITHUANIA
LAW
AMENDING THE LAW ON THE CONTROL OF STRATEGIC GOODS

11 October 2011 No XI-1616

Vilnius

Article 1. New Version of the Law of the Republic of Lithuania on the Control of Strategic Goods

The Law of the Republic of Lithuania on the Control of Strategic Goods shall be amended and set forth to read as follows:

“REPUBLIC OF LITHUANIA
LAW ON
THE CONTROL OF STRATEGIC GOODS

CHAPTER ONE
GENERAL PROVISIONS

Purpose of the Law

1. The purpose of this Law shall be to implement international agreements and measures prohibiting the proliferation of weapons of mass destruction and missiles capable of delivering such weapons, to ensure that international commitments are complied with by developing in the Republic of Lithuania an effective system of the control of strategic goods, which is integrated into the export control system of the European Union and international non-proliferation regimes; to provide conditions for ensuring the security of the Republic of Lithuania, promotion of development of modern technologies and growth of foreign trade.

2. This Law shall ensure the implementation of provisions of the legal acts of the European Union indicated in the Annex to this Law.

3. This Law shall establish the conditions of control of export, import, transit, brokering and transfer within the European Union of strategic goods.

Article 2. Scope of the Law

This Law shall apply to legal and natural persons, branches of foreign legal persons and other organisations whose activities are connected with the export, import, transit, brokering of military equipment, the entrance and transfer of military equipment within the European Union, the export, transfer, transit and provision of brokering services related to the dual-use items. This Law shall apply to the control of dual-use items to the extent that these issues are not regulated by provisions of Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (hereinafter: 'Regulation (EC) No 428/2009').

Article 3. Definitions

1. **Dual-use items** shall mean the items defined by Article 2(1) of Regulation (EC) No 428/2009.

2. **Military equipment** shall mean the products designed for or related to defence as included in the Common Military List specified in Article 4 of this Law.

3. **Recipient of military equipment** shall mean a legal person established in the European Union and legally responsible for the military equipment received from the supplier or a branch of a foreign legal person and another organisation or a natural person who is permanently resident in any Member State.

4. **Export of military equipment** shall mean transportation of military equipment outside the territory of the Republic of Lithuania, including re-export, transmission of software and technology by fax, telephone or any other mode and/or any other electronic means to the territory of a third country. Transmission of technology by telephone shall be considered as export only where the technology is contained in a document the essential part of which is read out over the telephone or is described over the telephone.

5. **Import of military equipment** shall mean the bringing of military equipment into the territory of the Republic of Lithuania and transmission of software and technology from the territory of a third country by fax, telephone or any other mode and/or by other electronic means. Transmission of technology by telephone shall be considered as import only where the technology is contained in a document the essential part of which is read out over the telephone or is described over the telephone.

6. **Entrance of military equipment** shall mean the bringing of military equipment into the territory of the Republic of Lithuania from the territory of any other Member State.

7. **Passage of military equipment** shall mean a transport of military equipment through the territory of one or more Member States, with the exception of the Member State of origin and the receiving Member State.

8. **Re-export of military equipment** shall mean export from the territory of the Republic of Lithuania of the military equipment formerly imported into this territory.

9. **Transfer of military equipment** shall mean any transmission or movement of military equipment from a supplier to a recipient in another Member State.

10. **Supplier of military equipment** shall mean a legal person established within the European Union and legally responsible for the transfer of military equipment or a branch of a foreign legal person and another organisation or a natural person who is permanently resident in any Member State.

11. **Transit of military equipment** shall mean a transport of military equipment entering from the territory of a third country and passing through the territory of the Republic of Lithuania to the territory of another third country.

12. **Strategic goods** shall mean dual-use items and/or military equipment, including services related to the above-mentioned items.

13. **Brokering** shall mean the negotiation and arrangement and execution of the transactions by the legal persons registered in the Republic of Lithuania and by branches of foreign legal persons and other organisations or natural persons permanently resident in the Republic of Lithuania for the transfer of military equipment outside the territory of the Republic of Lithuania, the territory of another Member State of the European Union or a third country to any other third country. In terms of regulation of the control of dual-use items, brokering shall be interpreted as defined by Regulation (EC) No 428/2009.

14. **International non-proliferation regimes** shall mean the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (WA), the Missile Technology Control Regime (MTCR), the Nuclear Suppliers Group (NSG), the Australia Group (AG), the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC), the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (BTWC), the Nuclear Non-proliferation Treaty (NPT) and other agreements and international commitments of states the purpose whereof is prevention of the proliferation of chemical, biological and nuclear weapons and conventional arms by political, economic, diplomatic and legal means.

15. **Third country** shall mean a state other than a Member State of the European Union.

16. **Territory of a third country** shall mean a territory outside the Community customs territory as defined by Article 3 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 2004 special edition, Chapter 2, Volume 4, p.

307), as last amended by Council Regulation (EC) No 1791/2006 of 20 November 2006 (OJ 2006, L 363, p. 1).

17. **Member State** shall mean a Member State of the European Union.

18. In this Law, a licence shall not mean a permission to engage in economic and commercial activities, but an authorisation issued by an authorised institution to export, import, carry in transit, broker or transfer within the European Union solely the strategic goods specified in the licence.

19. Other concepts of this Law shall be understood in the manner they are defined in other laws of the Republic of Lithuania or regulations of the European Union.

CHAPTER TWO

EXPORT, IMPORT, TRANSIT, BROKERING AND TRANSFER WITHIN THE EUROPEAN UNION OF STRATEGIC GOODS

Article 4. Common Military List

The Government of the Republic of Lithuania (hereinafter: ‘the Government’) or an institution authorised by it shall approve the Common Military List. This List must conform to the Common Military List of the European Union. Having regard to the interests of foreign policy and national security of the Republic of Lithuania, the Common Military List may be supplemented with national items of goods attributed to military equipment subject to the requirements of Article 6 of this Law.

Article 5. State Institutions Exercising Control of Export, Import, Transit, Brokering and Transfer within the European Union of Strategic Goods

1. The Ministry of Economy of the Republic of Lithuania (hereinafter: ‘the Ministry of Economy’) shall be in charge of the control of export, brokering and transit of dual-use items and of export, import, transit, brokering and transfer within the European Union of military equipment and shall exercise the control in conjunction with other state institutions and agencies in accordance with the procedure laid down by this Law and other legal acts.

2. The Government shall specify the state institutions and agencies exercising control of strategic goods, the powers thereof, also the procedure for exercising control of strategic goods in so far as this is not specified by Regulation (EC) No 428/2009 and this Law.

Article 6. Control of Export, Import, Transit and Brokering of Military Equipment

1. Export, import, transit or brokering of military equipment shall be subject to a licence for export, import, transit or brokering. These licences shall be issued by the Ministry of Economy.

2. Licences or authorisations for transit of military equipment, where it is carried out by a military institution of a third country or by a person authorised by this institution, shall be issued by an institution authorised by the Government in accordance with the procedure established by other legal acts of the Republic of Lithuania.

3. A licence referred to in paragraph 1 of this Article, to be issued by the Ministry of Economy, shall not be required for the import of military equipment, where such equipment is imported by the Ministry of National Defence of the Republic of Lithuania (hereinafter: 'the Ministry of National Defence'), the Lithuanian Army and the Weaponry Fund of the Republic of Lithuania under the Ministry of the Interior of the Republic of Lithuania (hereinafter: 'the Weaponry Fund').

4. A licence referred to in paragraph 1 of this Article, to be issued by the Ministry of Economy, shall not be required for re-export of military equipment for repair or maintenance, where repairs or maintenance is provided under contracts of purchase and sale or under warranty and where this equipment has been imported by the Ministry of National Defence or the Lithuanian Army.

5. The types of export, import, transit and brokering licences, the procedure for issuing licences, suspending such licences, lifting suspension of the licences and revoking the licences shall be laid down by the Government or an institution authorised by it.

Article 7. Control of Transfers of Military Equipment within the European Union

1. Transfer licences required for transfers of military equipment from the territory of the Republic of Lithuania to the territory of another Member State shall be issued by the Ministry of Economy.

2. A licence for transfers of military equipment within the European Union to be issued by the Ministry of Economy shall not be required where:

1) military equipment is transferred by the Ministry of National Defence, the Lithuanian Army, the State Border Guard Service under the Ministry of the Interior of the Republic of Lithuania or the Weaponry Fund;

2) supplies are made by the European Union, the North Atlantic Treaty Organization (NATO), the International Atomic Energy Agency (IAEA) or other intergovernmental organisations for the performance of their tasks;

3) the transfer is necessary for the implementation of a cooperative armament programme between the Member States;

4) the transfer is linked to humanitarian aid in the case of disaster or as a donation in an emergency.

3. A licence issued by the Ministry of Economy shall not be required for passage of military equipment from other Member States through the territory Republic of Lithuania or for entrance thereof from another Member State onto the territory of the Republic of Lithuania, with the exception of the cases when the Government, on grounds of public policy or public security, imposes the obligation to hold licences for entrance onto the territory of the Republic of Lithuania in respect of certain categories of military equipment.

4. The recipients of military equipment established in the Republic of Lithuania and holding an authorisation for entrance of military equipment in accordance with the procedure established by the Government under transfer licences published by other Member States must be certified for reliability, in particular as regards their capacity to observe export limitations of military equipment received under a transfer licence from another Member State. Only recipient undertakings producing military equipment shall be certified.

5. Reliability of a recipient undertaking producing military equipment to be certified shall be assessed according to the following requirements:

- 1) at least two years' experience in the area of production of military equipment;
- 2) any licences or authorisations to produce or commercialise military equipment, where such activity is subject to a licence or authorisation in accordance with the procedure laid down by legal acts;
- 3) activity related to integration of components of military equipment and parts thereof;
- 4) no effective court decisions adopted over the last three years and recognising that the undertaking has violated the requirements of the legal acts regulating the control of strategic goods, or no effective court judgments of conviction in respect of the crimes against humanity and war crimes, criminal acts against the independence, territorial integrity and constitutional order of the State of Lithuania as committed by the undertaking producing military equipment to be certified or an employee thereof, or no effective court judgments of conviction in respect of criminal acts against public security, property, property rights and property interests, the economy and business practice, the financial system and government order as committed by the undertaking producing military equipment to be certified;
- 5) the appointment of an officer responsible for transfers and exports of military equipment;

6) a written commitment to provide detailed information concerning the end-users or end-use of military equipment to the authorities exercising control of strategic goods and to comply with export limitations;

7) a transfer and export management system implemented in the undertaking and a description thereof.

6. A certificate shall not be issued where a recipient undertaking producing military equipment does not meet one or more requirements set forth by paragraph 5 of this Article.

7. A certified recipient undertaking producing military equipment must, within the time limit laid down by the Government, give a notice to the Ministry of Economy of any changes in industrial activities following the issuance of a certificate.

8. A certificate shall be suspended where a certified recipient undertaking producing military equipment no longer meets at least one requirement specified in points 2, 3, 5, 6 and 7 of paragraph 5 of this Article or fails to fulfil the duty specified in paragraph 7 of this Article.

9. Suspension of a certificate shall be revoked where, within a time limit of not less than 60 working days as laid down by the Government, the circumstances leading to suspension of the certificate are eliminated. A decision on revocation of suspension of the certificate shall be taken in accordance with the procedure established by the Government within five working days upon verification of the information supplied by the recipient undertaking producing equipment regarding elimination of the circumstances leading to suspension of the certificate.

10. A certificate shall be revoked if:

1) the circumstances leading to suspension of the certificate are not eliminated within the time limit laid down by the Government;

2) there is an effective court decision recognising the recipient undertaking producing military equipment guilty of violating the requirements of the legal acts regulating the control of strategic goods, or there is an effective court judgment of conviction regarding the criminal acts referred to in point 4 of paragraph 5 of this Article;

3) the recipient undertaking producing military equipment has provided misleading information or false data;

4) this is requested by the certified recipient undertaking producing military equipment;

5) the certified recipient undertaking producing military equipment ceases due to liquidation.

11. The Republic of Lithuania shall recognise the certificates issued to recipient undertakings established in another Member State and engaged in the production of military equipment.

12. The Ministry of Economy shall, in accordance with the procedure established by the Government, carry out certification of recipient undertakings established in the Republic of Lithuania and producing military equipment and issue thereto certificates of the specified form.

13. The types of licences for transfers within the European Union, the procedure for issuing licences, suspending, lifting suspension of the licences and revoking the licences, also the procedure for issuing certificates, suspending, lifting suspension of the certificates and revoking the certificates shall be laid down by the Government or an institution authorised by it.

Article 8. Control of Dual-Use Items

1. Export licences for dual-use items shall be issued by the Ministry of Economy.

2. Licences for brokering services in respect of dual-use items listed in Annex I to Council Regulation (EC) No 428/2009 shall be issued by the Ministry of Economy.

3. Transit of dual-use items shall be controlled by the Customs Department under the Ministry of Finance of the Republic of Lithuania in cooperation with other authorities exercising control of strategic goods in accordance with the procedure established by the Government or an institution authorised by it.

4. The procedure for issuing export licences for dual-use items and licences for brokering services, suspending such licences, lifting suspension of the licences and revoking the licences shall be laid down by the Government or an institution authorised by it.

Article 9. Document Attesting the End-Use of Strategic Goods

1. At the request of state institutions of a third country or a Member State issuing transfer licences, a legal or natural person or a branch of a foreign legal person and another organisation engaged in the import or entrance of strategic goods shall be issued a document attesting the end-use.

2. The procedure for issuing documents attesting end-use shall be established by the Government or an institution authorised by it.

Article 10. Refusal to Issue Licences, Suspension of Licences, Lifting of Suspension of Licences and Revocation Thereof

1. A licence shall not be issued if:

1) the issuance thereof is in contravention of international treaties of the Republic of Lithuania, sanctions implemented under the Law of the Republic of Lithuania on the Enforcement of Economic and Other International Sanctions, the criteria listed in Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing

control of exports of military technology and equipment, provisions of international non-proliferation regimes and the foreign policy and national security interests of the Republic of Lithuania;

2) there is an effective court judgment and unspent or unexpunged conviction in respect of the crimes against humanity and war crimes, criminal acts against the independence, territorial integrity and constitutional order of the State of Lithuania, public security, property, property rights and property interests, the economy and business practice, the financial system and government order as committed by the exporter, importer, supplier, recipient or broker;

3) the circumstances related to the risk of the end-use of strategic goods or possible use thereof for the production of weapons of mass destruction transpire;

4) the exporter, importer, supplier, recipient or broker of strategic goods has supplied misleading information or false data.

2. A licence shall be suspended if:

1) information is received that the exporter, importer, supplier, recipient or broker of strategic goods does not fulfil the conditions specified in the licence or does not comply with the requirements set forth by the legal acts regulating control of strategic goods;

2) it transpires that the exporter, importer, supplier, recipient or broker of strategic goods has supplied misleading information or false data;

3) information, other than declared, has been received in respect of the end-use of strategic goods;

4) foreign policy, national economy and national security interests of the Republic of Lithuania may be violated;

5) a political and military conflict has broken out in an importing country;

6) a state to which strategic goods are to be exported has been imposed international sanctions implemented under the Law of the Republic of Lithuania on the Enforcement of Economic and Other International Sanctions, where the licence has already been issued;

7) a pre-trial investigation is being conducted in respect of the exporter, importer, supplier, recipient or broker of strategic goods suspected of any crime against humanity or a war crime, a criminal act against the independence, territorial integrity and constitutional order of the State of Lithuania, public security, property, property rights and property interests, the economy and business practice, the financial system and government order, or a case related to these criminal acts has been referred to court.

3. Suspension of a licence shall be lifted where, within a time limit of not less than 60 working days as laid down by the Government, the circumstances leading to suspension of the licence disappear or are eliminated. A decision on lifting of suspension of the licence shall be

taken in accordance with the procedure established by the Government within five working days upon verification of the information supplied by the exporter, importer, supplier, recipient or broker of strategic goods regarding elimination of the circumstances leading to suspension of the licence.

4. A licence shall be revoked if:

1) the circumstances leading to suspension of the licence are not eliminated or do not disappear within the time limit laid down by the Government; or

2) there is an effective court decision recognising the licence holder guilty of violating the requirements of the legal acts regulating the control of strategic goods, or there is an effective court judgment of conviction regarding the criminal acts referred to in point 7 of paragraph 2 of this Article;

3) the undertaking holding the licence ceases due to liquidation;

4) the natural person holding the licence is recognised as legally incapable, dies or is declared dead or missing.

CHAPTER THREE

SUPPLY, ACCUMULATION AND ACCOUNTING OF DATA ON STRATEGIC GOODS AND EXCHANGE OF INFORMATION

Article 11. Supply of Data on Strategic Goods and Exchange of Information

1. Legal and natural persons and branches of foreign legal persons and other organisations engaged, in the manner prescribed, in exports, import, transit, transfer and entrance of strategic goods, acting as brokers in transactions or being the end-users of the goods must supply all data required for exercising control of strategic goods to state institutions and agencies exercising control of the strategic goods. The procedure for supplying the data shall be regulated by the Government or an institution authorised by it.

2. In order to ensure the efficiency of the control of exports, import, transit, brokering, transfer and entrance of strategic goods, the institutions exercising control of strategic goods shall cooperate and, within their remit, consult each other and exchange information with the competent authorities of the Member States on the issuance of licences and other issues of control of strategic goods.

3. Information on exports, import, transit, brokering, transfer and entrance of strategic goods or any other information related to control of such goods shall be supplied to institutions of the European Union, international non-proliferation regimes and international organisations in

compliance with international treaties of the Republic of Lithuania and in fulfilling the commitments of the Republic of Lithuania.

4. Data and information on strategic goods constituting a state, official or commercial secret shall be supplied to state institutions and agencies exercising control of the goods and shall be accumulated and preserved at the mentioned institutions and agencies according to the procedure established by the Law of the Republic of Lithuania on State Secrets and Official Secrets and other laws.

Article 12. Accumulation of Data on Strategic Goods

1. The Ministry of Economy shall accumulate data on the exports, import, transit, brokering, transfer and entrance of strategic goods and legal and natural persons and branches of foreign legal persons and other organisations engaged, in the prescribed manner, in exporting, importing or carrying in transit strategic goods and acting as brokers in transactions, on the suppliers, recipients and end-users of the above-mentioned goods or other persons in any way connected with the strategic goods and shall use the data for the purposes of control of strategic goods.

2. Statistical data on the exports, import, transit, transfer and entrance of strategic goods shall be collected, processed and supplied by customs offices and the Lithuanian Department of Statistics according to the procedure established by legal acts.

Article 13. Records of Data on Strategic Goods

1. Legal and natural persons and branches of foreign legal persons and other organisations who have been issued licences for export and brokering of dual-use items and licences for exports, import, transit, brokering, transfer or entrance of military equipment or who are the recipients or end-users of strategic goods must keep, in accordance with the procedure established by legal acts, detailed records on the strategic goods containing sufficient information for the identification of the goods, determination of the quantity, quality, type, value thereof, the names and addresses of the exporter, importer, broker, recipient and supplier of strategic goods, the end-use and the end-user of strategic goods.

2. Legal and natural persons and branches of foreign legal persons and other organisations must retain the records of data on strategic goods specified in paragraph 1 of this Article for at least five years from the end of the calendar year in which the goods in question were exported, imported, carried in transit, transferred within the European Union or brokering services were provided in respect thereof, unless the laws and other legal acts of the Republic of Lithuania establish otherwise.

CHAPTER FOUR
MEASURES OF CONTROL OF EXPORTS, IMPORT, TRANSIT, BROKERING,
TRANSFER AND ENTRANCE OF STRATEGIC GOODS

Article 14. Exercise of Control of Strategic Goods

1. The persons exercising control of exports, import, transit, brokering, transfer and entrance of strategic goods shall have the right to check whether or not legal and natural persons and branches of foreign legal persons and other organisations engaged in exports, import, transit, brokering, transfer and entrance of strategic goods, providing brokering services or the end-users of the strategic goods comply with the requirements of this Law and other legal acts regulating control of strategic goods, also to enter the territory or premises wherein the strategic goods are kept or used and to be granted access to records of strategic goods and other information required for exercising the control. The procedure for exercising control of strategic goods shall be established by the Government or an institution authorised by it.

2. Strategic goods imported into the Republic of Lithuania in accordance with the procedure established by the international treaties of the Republic of Lithuania may be inspected, upon the application of the exporting countries, in the presence of representatives of the mentioned countries, whereas representatives of the Republic of Lithuania may be authorised to carry out inspection of strategic goods exported from the Republic of Lithuania in the importing country.

3. Strategic goods imported and entered into the Republic of Lithuania may be subject to examination by international inspections authorised under international treaties to exercise control over the implementation of international non-proliferation regimes.

4. The persons exercising control of exports, import, brokering, transfer and entrance of strategic goods must ensure protection of information received from legal and natural persons and branches of foreign legal persons and other organisations in the manner prescribed by laws of the Republic of Lithuania.

CHAPTER FIVE
FINAL PROVISIONS

Article 15. Liability for Infringements of This Law

Legal and natural persons and branches of foreign legal persons and other organisations in breach of the provisions of this Law shall be held liable under laws of the Republic of Lithuania.

Annex to
the Republic of Lithuania
Law on the Control of
Strategic Goods

LEGAL ACTS OF THE EUROPEAN UNION IMPLEMENTED BY THIS LAW

1. Council Common Position 2003/468/CFSP of 23 June 2003 on the control of arms brokering (OJ 2003 L 156, p. 79).

2. Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment (OJ 2008 L 335, p. 99).

3. Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ 2009 L 134, p. 1).

4. Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community (OJ 2009 L 146, p. 1), as last amended by Commission Directive 2010/80/EU of 22 November 2010 amending Directive 2009/43/EC of the European Parliament and of the Council as regards the list of defence-related products (OJ 2010 L 308, p. 11).”

Article 2. Entry into Force of the Law

This Law, except for Article 3 of this Law, shall enter into force on 30 June 2012.

Article 3. Proposal to the Government

The Government and/or an institution authorised by it shall adopt the legal acts required for implementation of this Law prior to the entry into force of this Law.

I promulgate this Law passed by the Seimas of the Republic of Lithuania.

PRESIDENT OF THE REPUBLIC

DALIA GRYBAUSKAITĖ