I. GENERAL PROVISIONS

MINISTRY OF THE PRESIDENCY

Royal Decree 679/2014 of 1 August 2014 establishing the control Regulation on external trade in defence material, other material and dual-use items and technologies.

The First Final Provision of Law 53/2007 of 28 December 2007 on the control of external trade in defence and dual-use material provides that the Government, by Royal Decree, will dictate the regulatory norms for its implementation.

The aim of the Regulation controlling external trade in defence material, other material and dual-use items and technologies is to establish the conditions, requirements and procedures to control said external trade in defence material, other material and dual-use items and technologies, in order to duly comply with the regulations of the European Union and international commitments entered into by Spain, and contribute to promoting peace, stability and security at global and regional level and to protect general national defence interests and the State’s foreign policy.

In order to include all regulations on the control of external trade in these items in a single text, this Royal Decree recasts the provisions adopted in the Regulation controlling external trade in defence material, other material and dual-use items and technologies approved by Royal Decree 2061/2008 of 12 December 2008, amended by Royal Decree 844/2011 of 17 June 2011. Moreover, it updates the regulation of external trade transfers of defence material, other material and dual-use items and technologies and to that end incorporates and implements European regulations and commitments made in international fora to which Spain is party, without prejudice to compliance with administrative authorisation requirements arising from the general law on the transfer of weapons not within the ambit of this Royal Decree.

This regulation is subject to the following:

- The 10 April 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction.
- Resolution 55/255 of the United Nations General Assembly of 8 June 2001 approving the 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; the Programme of Action of the United nations to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects.
- Resolution 1540 of the United Nations Security Council of 28 April 2004 intended to prevent the proliferation of weapons of mass destruction and specifically to prevent non-State agents from acquiring and using them.
- The Arms Trade Treaty passed on 2 April 2013 by the United Nations General Assembly, signed by Spain on 3 June 2013 and ratified on 2 April 2014. Spain is provisionally applying Articles 6 and 7 of that treaty referring to “Prohibitions” and “Export and export assessment” until its entry into force.
- Recommendation in respect of defence exports by the Organisation for Economic Co-operation and Development (OECD) for application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.


Council Joint Action of 22 June 2000 concerning the control of technical assistance related to certain military end-uses.


The external trade control system applying to defence-related equipment and technology has undergone several changes. Under Royal Decree 480/1988 of 25 March 1988 establishing the attributions, duties and operation of the Inter-Ministerial Regulatory Board on External Trade in Defence Material and Dual-use Items and Technologies, currently revoked, the Inter-Ministerial Regulatory Board on External Trade in Defence Material and Dual-use Items and Technologies, replacing the defunct Inter-Ministerial Regulatory Board on External Trade in Weapons and Explosives which had been created under Royal Decree 3150/1978 of 15 December 1978, and the Special Register of External Trade Operators in Defence Material and Dual-use Items and Technologies were created. Chapter I, Sections 2 and 3 respectively of this new regulation regulate the make-up and procedures of the Inter-Ministerial Regulatory Board on External Trade in Defence and Dual-use Material (JIMDDU), created by Royal Decree 824/1993 of 28 May 1993 approving the Regulation on external trade in defence and dual-use material, and the Special Register for External Trade Operators in Defence and Dual-use Material (Spanish acronym REOCE), created under Royal Decree 1782/2004 of 30 July 2004 approving the control Regulation on external trade in defence material, other material and dual-use items and technologies.

Having regard to the punitive and sanction system, the Anti-smuggling Act, Organic Law 12/1995 of 12 December 1995 amended by Organic Law 6/2011 of 30 June 2011 defining as a criminal offence, inter alia, the unauthorised export of defence material, other material or dual-use items and technologies or export with authorisation obtained by fraudulent means, applies. The provisions of Organic Law 10/1995 of 23 November 1995 on the Criminal Code, whose Articles 566 and 567 contain references to weapons, war ammunition and chemical weapons and sanctions applicable to the manufacture, commercialisation, trafficking establishment of arms depots that are not authorised by the law or the competent authorities, likewise apply. Organic Law 10/1995 of 23 November 1995 was, in turn, amended by Organic Law 5/2010 of 22 June 2010 to include biological weapons, anti-personnel mines and cluster munitions putting them in the same category as the above-mentioned weapons. Article 345 of the Criminal Code was also amended to, inter alia, characterise the appropriation of nuclear material or hazardous radioactive elements as a criminal act.

This Royal Decree updates the regulation of external trade transfers of defence material, other material and dual-use items and technologies in the following important ways:

and transit measures for firearms, their parts and components and ammunition, simplifies procedures for temporary exports of these weapons, requires expressed authorisation from the authorities of the countries of transit (with exceptions) and makes the marking of firearms prior to export mandatory.

The European Union's new general export authorizations for the export of certain dual-use items and technologies to certain countries will be incorporated into Spanish legislation.

In the interest of further simplification, the Secretariat of State for Trade of the Ministry of Economy and Competitiveness is authorised to handle all of the procedures. The Deputy Directorate-General of International Trade in Defence and Dual-use Material shall be responsible for processing the applications referred to in this regulation.

The makeup of the JIMDDU is modified to bring it into line with Royal Decree 1/2012 of 5 January 2012 amending Royal Decree 1823/2011 of 21 December 2011 restructuring ministerial departments.

Details are given explaining the procedure applicable to intra-Community transfers of defence material from any Member State of the European Union.

A safeguard clause has been introduced in the case of certified recipients, in accordance with the criteria set out in Article 9 of Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009, that fail to respect the conditions attached to a general transfer license or where public order, public safety or essential security interests are at stake.


The period of time during which the holders of the requisite authorisations must keep the documents related with transactions has been extended from four to ten years to bring it into line with the period established in the Arms Trade Treaty.

A special mention has been included in the Arms Trade Treaty passed on 2 April 2013 by the United Nations General Assembly, signed by Spain on 3 June 2013 and ratified on 2 April 2014, to apply Articles 6 and 7 of that treaty referring to “Prohibitions” and “Export and export assessment”. A specific reference to the “serious violation of international human rights law or of international humanitarian law” has been included.

The system whereby authorisations can be rectified has been amended. These may only be requested to modify the effective term and monetary value and are not necessary in the case of customs change. Moreover, the number of rectifications for each original license has been limited to two and the rectification's period of validity is the same as that of the original license as from the latter's date of authorisation.

Control document requirements have been modified, especially in the case of firearms for civilian use.

The annexes containing the licensing forms, REOCE inscription requests and control documents have been updated. Annex II has been divided into two sections, Annex II.1 for firearms for civilian use and Annex II.2 for anti-riot items. The annexes corresponding to the lists of items subject to control have been updated to bring them into line with changes in the lists drafted by international control and non-proliferation fora.

The time within which to re-transfer goods in the case of temporary transfers has been extended in accordance with Article 140 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code.

Customs processing has been simplified to avoid double authorisation for the same procedure.

Certain operations involving explosives and related equipment included on the lists of equipment which can be used for domestic repression require authorisation as a result of the European Union imposing restrictive measures on certain destinations. These authorisations refer exclusively to items for civilian use employed in the mining and infrastructure sectors.

Throughout the process, the regulatory text now being approved received a favourable report from the JIMDDU at its meeting of 7 March 2013 and from the Spanish Data Protection Agency and the Standing Interministerial Commission on Weapons and Explosives (Spanish acronym CIPAE). It was also subject to the mandatory sector-wide hearing on 8 March 2013 pursuant to Article 24(1) c) of Law 50/1997 of 27 November 1997 on Governance.
By virtue hereof, at the proposal of the Ministers of the Economy and Competitiveness, Foreign Affairs and Cooperation, Defence, Finance and Public Administration, Interior, Industry Energy and Tourism and the Presidency, in accordance with the Council of State and subsequent to Cabinet deliberations at its meeting of 1 August 2014,

BE IT ENACTED:

Single Article. Approval of the Regulation.

The Regulation controlling external trade in defence material, other material and dual-use items and technologies, the text of which follows this Royal decree, is hereby approved.

Sole additional provision. Legal regime governing weapons, explosives and ammunition for civilian use.

This regulation shall apply without prejudice to the provisions of the Weapons Regulation passed by Royal Decree 137/1993 of 29 January 1993, the Explosives Regulation passed by Royal Decree 230/1998 of 16 February 1998 and the Pyrotechnics and Ammunition Regulation passed by Royal Decree 563/2010 of 7 May 2010, their amendments and, as the case may be, the regulations replacing them.

First transitional provision. Authorisations currently in force.

Transactions based on transfer authorisations issued in compliance with regulations in force prior to the entry into force of this Royal Decree may be undertaken in accordance with the rules in force at the time of authorisation within the effective term of the respective licences.

Second transitional provision. Pending applications.

Applications for transfer authorisation submitted and pending resolution prior to the entry into force of this Royal Decree shall be resolved in accordance with the provisions of the latter.

Sole repeal provision. Repeal of Regulations.

1. Royal Decree 2061/2008 of 12 December 2008 approving the control Regulation on external trade in defence material, other material and dual-use items and technologies is hereby repealed.

2. All provisions of equal or lower rank than and conflicting with the terms of this Royal Decree are hereby repealed.

First final provision. Constitutional authority.

This Royal Decree is enacted in accordance with the terms of Article 149(1) 4) and 10 of the Spanish Constitution vouchsafing exclusive powers to the State regarding defence and external trade respectively.

Second final provision. Complementary regulation.

For all events not envisaged in this Regulation regarding the control of external trade in defence material, other material and dual-use items and technologies, Order ITC/2880/2005 of 1 August 2005 regulating the procedure for processing of administrative export authorisations and pre-export notifications and the 24 November 1998 Order of the Ministry of Economy and Finance regulating the procedure and processing of administrative import authorisations and pre-import notifications, shall be applied subsidiarily.

Third final provision. Implementing legislation.
The Ministers of the Economy and Competitiveness, Foreign Affairs and Cooperation, Defence, Finance and Public Administration, Interior, Industry Energy and Tourism and the Presidency, in the sphere of their respective competences, shall enact the provisions necessary for the enforcement and implementation of the provisions laid down in this Royal Decree.

Fourth final provision. Update of annexes and modification of forms.

1. The content of Annexes I, II, III, IV and V of the regulation controlling external trade in defence material, other material and dual-use items and technologies may be updated by order of the Minister of the Economy and Competitiveness, duly informed by the JIMDDU, in accordance with the changes approved by international bodies, international treaties, international export control and non-proliferation regimes and European Union regulations.

2. The Secretariat of State for Trade of the Ministry of the Economy and Competitiveness and the Directorate-General for Armament and Materiel of the Ministry of Defence may, within the sphere of their competence, amend Annex VI forms. In any case, the provision whereby such amendment is made must be published in the "Official State Gazette".

Fifth final provision. Entry into force.

This Royal Decree shall enter into force on the day following its publication in the ‘Official State Gazette’.

Given at Madrid, 1 August 2014.

FELIPE R.

The Vice-president of the Government and Minister of the Presidency,
SORAYA SÁENZ DE SANTAMARÍA ANTÓN
Regulation on the control of external trade in defence material, other material and dual-use items and technologies

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CHAPTER I

General provisions

Section 1. Aim and requirements of authorisation

Article 1. Purpose.

The purpose of this Regulation is to lay down the conditions, requirements and procedure whereby to control external trade in defence material, other material and dual-use items and technologies, donations, concessions and leasing, duly complying with European Union regulations, international commitments undertaken by Spain, peace, stability and security considerations on the global and regional level and in the general interest of national defence or of national foreign policy.

Article 2. Authorisation requirement.

1. Defence material.

   a) The following are subject to authorisation under the specific control of the Regulation:

      1. Permanent and temporary exports and dispatch of the material included on the List of Defence Material in Annex I.
      2. Permanent and temporary exports and dispatch of components, technology and production techniques arising from a licensed production agreement in accordance with the definition laid down in Article 3(16) of Law 53/2007 of 28 December 2007 on the control of external trade in defence and dual-use material.
      3. Permanent and temporary imports of the material included on the Weapons of War list attached as Annex III.1, including those from list 1 of the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction.
      4. The permanent and temporary export of items and technologies, even if not expressly listed on the Military Goods Control List, shall be subject to authorisation under the following circumstances:

         i) Where the exporter has been informed by the competent Spanish authorities that the end-use of the materials in question is or may be, in its entirety or in part, to contribute to the development, production, handling, operation, maintenance, stockpiling, detection, identification or propagation of chemical, biological or nuclear weapons or of other explosive nuclear devices or to the development, production, maintenance or stockpiling of missiles capable of carrying such weapons.
         ii) Where the purchasing country or the country of destination is subject to a European Union embargo by virtue of a decision taken by the Organisation for Security and Cooperation in Europe or an arms embargo imposed by binding resolution of the United Nations Security Council and if the exporter has been informed by the competent Spanish authorities that the items in question are or may be intended, in their entirety or in part, for a military end-use. For the purposes of this paragraph, ‘military end-use’ shall mean: the incorporation into military items listed in the List of Defence Material; the use of production, test or analytical equipment and components therefor, for the development, production or maintenance of military items listed in the above-mentioned list; use of any unfinished products in a plant for the production of military items listed in the above-mentioned list.
         iii) Where the exporter has been informed by the competent Spanish authorities that the items in question are or may be intended, in their entirety or in part, for use as parts or components of military items listed in the Military Goods Control List that have been exported from Spanish territory without authorisation or in violation of a prescribed authorisation.
         iv) Where the exporter is aware or has reason to believe that these materials are intended or could be intended, in their entirety or in part, for any of the uses referred to in Article 2(1) a) 4 ii).
         v) Where the sale, supply, transfer or export of explosives and related equipment included on the lists of equipment which can be used for domestic repression require authorisation as a result of the European Union imposing restrictive measures on certain
destinations. These authorisations shall refer only to explosives and related equipment for civilian use by the mining and infrastructure sectors and to technical assistance, brokering and other services.

b) An Individual Transfer License is not required for the introduction of intra-Community transfers of the defence material listed in Annex I.1 of the Military Goods Controls from any European Union Member State. Such transfers are subject to a prior dispatch authorisation issued by the competent authorities of the country from which said defence material is dispatched.

c) Having regard to Council Common Position 2003/468/CFSP of 23 June 2003 on the control of arms brokering, all brokering activity, i.e. activities carried out by natural or legal persons for the purpose of negotiating or arranging transactions in Spanish territory which could imply the transfer of items listed in Annex I.1 of the EU Common List of Military Equipment from a third country to any other third country or for the purpose of buying, selling, or arranging for the transfer of the said items of their property from a third country to any other third country.


2. Other Material.

a) The following are subject to authorisation under the specific control of the Regulation:

1. The permanent and temporary export of the material listed in Annex II.
2. The permanent and temporary dispatch of the material listed in paragraph 2 of Annex II.1 and in Annex II.2.
3. The permanent and temporary import of the material listed in Annex III.2.
4. The permanent and temporary introduction of the material listed in paragraphs 2 and 3 of Annex III.2.

b) The dispatch and introduction of firearms for civilian use, their parts, components and ammunition described in Annexes II.1 and III.2 to/from European Union countries do not require authorisation within the scope of this Regulation. These transfers shall be regulated in accordance with the provisions of Chapter II, Section 6 of the Weapons Regulation passed by Royal Decree 137/1993 of 29 January 1993 and subsequent amendments, Title VII, Chapter V of the Explosives Regulation approved by Royal Decree 230/1998 of 16 February 1998 and subsequent amendments, and of Title VIII, Chapter V of the Pyrotechnics and Ammunition Regulation approved by Royal Decree 563/2010 of 7 May 2010.


d) No authorisation is needed within the scope of this Regulation for the temporary export and re-export of regulated firearms, their components and ammunition, undertaken by natural persons, that are not related with economic or commercial activity and are intended for hunting outings or sport shooting.

3. Dual-use items and technologies.

a) The following are subject to authorisation under the specific control of the Regulation:

1. The permanent and temporary export and dispatch of dual-use items and technologies in accordance with Council Regulation (EC) 428/2009 of 5 May 2009 and provisions amending or replacing it.
2. Technical assistance as per Council Joint Action of 22 June 2000 concerning the control of technical assistance related to certain military end-uses, including Article 3 thereof.


4. The permanent and temporary import and introduction of the dual-use items and technologies included in Annex III.3 in compliance with Article 2 of Law 49/1999 of 20 December 1999 on control measures applicable to chemicals liable to be diverted for the manufacture of chemical weapons that are included on lists 1, 2 and 3 of the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction.

5) The transfer of dual-use items and technologies referred to in the prohibition envisaged in Article III of the 10 April 1972 Convention on the prohibition of the development, production and stockpiling of bacteriological (biological) weapons and toxins and on their destruction as concerns microbial agents or other biological agents or toxins, regardless of their origin or production method or of the equipment or vectors designed for the use of the said agents or toxins for hostile purposes or in armed conflicts, shall be subject to control.

6. The provision of brokering services as concerns dual-use items and technologies as defined under Article 2 of Regulation (EC) No 428/2009 of 5 May 2009 and subsequent amendments.

b) The provision of brokering services as concerns the dual-use items and technologies listed in Annex I of Council Regulation (EC) No 428/2009 of 5 May 2009 and subsequent amendments, where the operator has been informed by the Secretariat of State for Trade that the items in question are or may be intended, in their entirety or in part, for any of the uses referred to in Article 4(1) and (2).

c) If the operator is aware or has reason to believe that the dual-use items and technologies listed in Annex I of Council Regulation (EC) No 428/2009 of 5 May 2009 and its subsequent amendments concerning which it is providing its services, are or may be intended, in their entirety or in part, for any of the uses referred to in Article 4(1) and (2) of said Regulation, it must report this fact to the Secretariat of State for Trade which will decide, duly informed by the Inter-Ministerial Regulatory Board on External Trade in Defence and Dual-Use Material, hereafter JIMDDU, whether the brokering of said items and technologies requires authorisation.

Article 3. Authorisation exemption.

Pursuant to Article 5 of Law 53/2007 of 28 December 2007, no administrative authorisation shall be required for the transfer of defence material, other material or dual-use items and technologies which accompany or are to be used by the Spanish Armed Forces or the State Police and Security Forces on manoeuvres or missions outside of Spain for the purpose of humanitarian operations, peace-keeping or other international commitments. The same applies to material accompanying or to be used by armies of other countries on combined or joint manoeuvres with the Spanish Armed Forces in national territory, including temporary leasing arrangements, for the operations cited above of the aforementioned materials, items or technologies and the use of consumables.

In these cases, if it is decided to sell or donate the aforementioned materials, items or technologies when they are outside of the territory of the exporting or dispatching country, the requisite administrative transfer authorisation must be requested and the delivery of the materials may be made from or at the place where they are located.

Article 4. Control documents.

1. The requests for authorisation referred to in the foregoing articles must be accompanied by the control documents stipulated in Article 30 in order to provide sufficient guarantee that the destination and, if relevant, the end-use of materials, products and technologies are within the scope of the corresponding authorisation.

2. Also, authorisation requests must include information regarding transit countries and means of transport used in the transfers. In the case of brokering transactions, this information shall also include the financing used.
Article 5. Authority to take decisions.

1. Decisions regarding applications for authorisation within the ambit of this Regulation are to be taken by the head of the Secretariat of State for Trade of the Ministry of the Economy and Competitiveness.

2. The Deputy Directorate-General for International Trade in Defence and Dual-use Material shall be responsible for processing the applications referred to in this regulation.

Article 6. Time limits and effects of receiving no expressed notification of the decision.

1. A decision regarding applications for authorisation must be communicated within a maximum of six months unless a longer period is established by a norm with a rank equal or higher than that of a law.

2. In the event that the foregoing period of time elapses and no expressed resolution is forthcoming the applicants, in accordance with paragraph 2 of the Twenty-ninth Additional Provision of the Fiscal, Administrative and Social Order Act, Law 14/2000 of 29 December 2000, may assume that their request has been denied.

3. In respect of all issues not envisaged under Law 53/2007 of 28 December 2007 and by this Regulation, the procedure for the concession of authorisations shall be governed by the provisions of the Public Administrations (legal regime) and Common Administrative Procedure Act, Law 30/1992 of 26 November 1992 and subsequent amendments and by Royal Decree 1778/1994 of 5 August 1994 adapting the regulatory norms related to authorisation issues, amendment and cancellation proceedings to the said Law.

Article 7. Denial of authorisation requests and suspension and nullification of authorisations.

1. The authorisations referred to in Article 2 may be suspended, denied or revoked by the head of the Secretariat of State for Trade in the following cases:

   a) When there is reasonable suspicion that the defence material, other material or dual-use items and technologies may be used for actions which could disturb the peace, stability or security on a global or regional scale, could heighten tensions or latent conflicts, could be used in such a way as to disrespect the inherent dignity of human beings, could be used for domestic repression or in situations of serious violation of international human rights law or international humanitarian law, are destined to countries with a record of diverting transferred material or which could violate international commitments undertaken by Spain. In determining reasonable suspicion, due consideration shall be given to the reports on transfers of defence material and the final destination of these operations issued by international organisations in which Spain participates, reports issued by human rights bodies and other United Nations organisations, information furnished by organisations and research centres of acknowledged prestige in the areas of development, peace and security, disarmament, demobilisation and human rights and the most up to date best practices described in the User’s Guide of Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment.

   b) When they contravene national security, defence and foreign policy interests.

   c) In the cases envisaged under Article 6 “Prohibitions” or cases of breach of the parameters laid down in Article 7 “Export and export assessment” of the Arms Trade Treaty passed on 2 April 2013, signed by Spain on 3 June 2013 and ratified on 2 April 2014.

   d) When they violate the guidelines agreed by the European Union, particularly the criteria of Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment and the criteria adopted in the 24 October 2000 Document of the Organisation for Security and Co-operation in Europe (OSCE) on Small Arms and Light Weapons and other applicable international provisions of which Spain is signatory. The most up to date best practices described in the User Handbook shall be used in applying the criteria of the Common Position.

   e) When they contravene the limits set by International and European Union Law such as, inter alia, the need to respect embargoes ordered by the United Nations and the European Union.
f) When there is a need to protect essential national security or public order interests, the authorisations for General Transfer Licenses of Defence Material referred to in Article 28 may be revoked.

2. In any case, authorisations must be revoked if the conditions to which they are subject and on the basis of which they were awarded are not respected or if the applicant provides false information or omits information.

3. If it is believed that there is a serious risk that a recipient certified by another Member State in accordance with the criteria laid down in Article 9 of Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009, is in breach of the conditions of a General License for Intra-community Transfers of Defence Material, or if public order, public security or essential security interests are believed to be at risk, the Member State that certified said recipient firm must be notified and asked to verify the situation. If the doubt persists, the effects of the General Licence for Intra-community Transfers of Defence Material with respect to the recipients in question may be temporarily suspended, information being furnished to the European Commission and the other Member States of the reasons for this safeguard measure which may be lifted if deemed unjustified.

4. The nullification or suspension of authorisations requires an appropriate administrative enquiry whereby the interested party will have the benefit of a hearing which shall adhere to the provisions of Law 30/1992 of 26 November 1992 and subsequent amendments and Royal Decree 1778/1994 of 5 August 1994.

Article 8. Administrative appeals.

The decisions handed down by the head of the Secretariat of State for Trade of the Ministry of the Economy and Competitiveness may be appealed to a higher court pursuant to Article 114 of Law 30/1992 of 26 November 1992.

Article 9. Control measures.

1. The holders of the attendant authorisations shall be subject to inspection by the Secretariat of State for Trade of the Ministry of the Economy and Competitiveness and by the Department of Customs and Excise Duties of the Ministry of Finance and Public Administration and must keep all of the documentation related to the transactions which is not already in the possession of the General State Administration on file and at the disposal of the said inspection bodies for a period of ten years following the date of expiration of the authorisation. Every six months authorisation holders must remit the total or partial dispatches of defence material, other material and dual-use items and technologies under each transfer authorisation corresponding to the previous six-month period to the Deputy Directorate-General for International Trade in Defence and Dual-use Material of the Ministry of the Economy and Competitiveness or, as the case may be, issue a statement indicating that no transaction was undertaken.

2. For transactions involving dual-use items and technologies, including the provision of brokering services, operators or brokers are also subject to the control measures laid down in Chapter VII of Council Regulation (EC) No 428/2009 of 5 May 2009 and all provisions amending or replacing it.

3. The Department of Customs and Excise Duties must submit a half-yearly report to the Secretariat of State for Trade of the total or partial dispatch statistics regarding the authorisations issued by the Secretariat of State for Trade for the transfer of defence material, other material and dual-use items and technology.

4. Pursuant to Article 5 of Council Common Position 2003/468/CFSP of 23 June 2003 on the control of arms brokering, the Secretariat of State for Trade shall exchange information concerning arms brokering activities with European Union Member States and with third states, as the case may be, especially concerning applicable legislation, registered brokers (if relevant), information sheets on brokers and registration application denials (if relevant) and of authorisation requests.

In the event that several Member States participate in the control of the same brokering transaction, consultations shall be undertaken with the competent authorities of the Member State(s) in question furnishing them with all pertinent information. Possible objections lodged by the Member State(s) shall be binding in terms of the concession of authorisation for the
brokering activity in question. If no objections have been lodged within ten working days, it shall be assumed that the Member State(s) consulted do not have any objection.

Article 10. Transit.

1. Pursuant to Article 11 of Law 53/2007 of 28 December 2007, the General State Administration may immediately undertake to detain defence material, other material and dual-use items and technologies in transit through territory, maritime area or airspace subject to Spanish sovereignty when warranted by the cases envisaged in Article 8 of that Law.
2. The Ministry of Foreign Affairs and Cooperation shall inform the JIMDDU on a regular basis regarding authorisations it has issued for the transfer of defence material through national territory.

Section 2. Special Register of External Trade Operators in Defence and Dual-use Material

Article 11. Regulation of the Special Register of External Trade Operators in Defence and Dual-use Material.

The Special Register of External Trade Operators in Defence and Dual-use Material, hereafter REOCE, shall have the characteristics and adhere to the processing procedures regulated under Articles 12 to 15.

Article 12. Characteristics of the REOCE.

1. The purpose of the REOCE is to record the data of external trade operators dealing in defence material, other material and dual-use items and technologies that engage in activities subject to control under Law 53/2007 of 28 December 2007 and under this Regulation.
2. Operators who engage in these activities, including both natural and legal persons, are under obligation to furnish their personal data in accordance with this Regulation.
3. The personal data collection procedure is via transcription of the documentation furnished by the interested parties.
4. The data appearing in the REOCE is based on the personal data included in the registration application form attached hereto as Annex VI.15.
5. The administrative body responsible for the REOCE is the Secretariat of State for Trade of the Ministry of the Economy and Competitiveness before which operators can exercise their right to access, rectification, cancellation and opposition.
6. The REOCE shall be assigned a medium level of security.
7. Information is partially automated by means of a data processing system.

Article 13. Registration requirements and exemptions.

1. Only operators figuring in the REOCE may apply for authorisation to engage in export-dispatch, import-introduction or brokering transactions of the materials, items and technologies referred to herein. Inscription in the former "Special Register of Exporters" shall remain valid and effective with respect to the transactions initially giving rise to the operator's access to the Register.
2. Inscription in REOCE is limited to those natural or legal persons who are residents in Spain; no exception being made in the case of businesses with legal domicile in tax havens.
3. Spanish firms with direct or indirect foreign capital related with the manufacture, trade in or distribution of weapons and explosives for civilian use and with activities related with National Defence, must furnish evidence that the foreign investor in question has administrative authorisation from the Council of Ministers. The said authorisation shall be issued in accordance with Royal Decree 664/1999 of 23 April 1999 on foreign investment.
4. Pursuant to Article 10 of the Weapons Regulation approved by Royal Decree 137/1993 of 29 January 1993, all natural or legal persons engaging in the permanent or temporary transfer of regulated firearms as part of their professional activity must have first obtained an authorisation of their status as a dealer or broker from the Directorate-General of the Guardia Civil.
5. Administrative bodies of the Armed Forces, State law enforcement officials attached to the National Government, law enforcement bodies belonging to the Autonomous Communities and local police forces are exempted from the registration requirements set out in paragraph 1. However, export-dispatch and import-introduction transactions corresponding to the aforementioned bodies are subject to the provisions of this regulation in respect of the authorisation requirement and the compulsory JIMDDU report referred to in Articles 2 and 18.

6. This same inscription exemption shall apply to natural persons when a transfer transaction is undertaken regarding firearms not arising from economic or commercial activity.

Article 14. Obligations of those registered.

1. Only the transactions described in the registration request of the corresponding operator may be authorised.

2. Registered operators shall maintain records or statements in accordance with Article 9(1).

3. Registered operators who are dealers or brokers must keep a record of all firearms transfers made and these records must contain the data referred to in Article 10(2) of the Weapons Regulation in the wording of Royal Decree 976/2011 of 8 July 2011.

Article 15. Procedure and processing.

1. Applications for inscription in the REOCE are submitted to the Secretariat of State for Trade using the form attached hereto as Annex VI.15.

Registered operators must report any changes in the data recorded on the application by means of the same form within a period of thirty working days as from the date said changes were made.

2. The registration form shall be submitted in duplicate, one copy for the Secretariat of State for Trade and the other for the applicant.

3. The Secretariat of State for Trade may call on the interested party to furnish greater detail or supplementary information in respect of the data set out on the application form.

4. The data provided on the application form and any further information communicated to the Deputy Directorate-General for International Trade in Defence and Dual-use Material will be reserved for the Administration and not communicated to any other body of the Public Administration except where necessary to comply with the duties laid down in the regulation so that all members of the JIMDDU have objective data with which to perform their analyses and issue their compulsory reports.

5. Processing shall commence upon submission of the duly completed request form at the General Registry of the Ministry of Economy and Competitiveness or at the Regional or Territorial Trade Directorates. This form may also be submitted at any of the locations envisaged under Article 38(4) of Law 30/1992 of 26 November 1992.

6. Once the request form is submitted, the head of the Secretariat of State for Trade, duly informed by the JIMDDU, shall deliver a decision concerning the entry and the interested party shall be notified of the latter within 60 working days from the date of submission.

7. In issuing its report the JIMDDU must check whether any document exists indicating the participation of the applicant or operator in unlawful activities, of having committed any of the acts classified in Organic Law 12/1995 of 12 December 1995 on the repression of smuggling or whether the operator lacks guarantees of its capacity to effectively control the transfers of the materials, items or technologies included on the registration application, in which case said application would be denied.

Special attention will be paid to checking whether applicant undertakings have been convicted of crimes related to the corruption of foreign public officials in its international trade dealings and to this end a statement from the interested party is required. This would be cause for the temporary or permanent suspension of inscription in the REOCE which must be communicated to the Deputy Directorate-General for International Trade in Services and Investments of the Ministry of the Economy and Competitiveness in accordance with the OECD Recommendation and in application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Moreover, in the event of a change in the initial conditions in the sense just described, the suspension or nullification of a previously approved registration may be proposed.
Section 3. The Inter-Ministerial Regulatory Board on External Trade in Defence and Dual-Use Material.

Article 16. Regulation of the Inter-Ministerial Regulatory Board on External Trade in Defence and Dual-Use Material.

The make-up and duties of the Inter-Ministerial Regulatory Board on External Trade in Defence and Dual-Use Material (JIMDDU) are laid down in Articles 17 and 18.

Article 17. Makeup.

1. The JIMDDU is attached to the Ministry of the Economy and Competitiveness and shall be composed of the following members:

   a) President: The Secretary of State for Trade of the Ministry of the Economy and Competitiveness.
   b) Vice-president: the Secretary of State for Foreign Affairs of the Ministry of Foreign Affairs and Cooperation.
   c) Members:
      The Director-General for Foreign Policy and Multi-lateral, Global and Security Affairs of the Ministry of Foreign Affairs and Cooperation.
      The Director-General for Armament and Materiel of the Ministry of Defence.
      The Director of the Department of Customs and Excise Duties of the National Tax Administration Agency attached to the Ministry of Finance and Public Administration.
      The Director-General of the Guardia Civil of the Ministry of the Interior.
      The Director-General of the Police of the Ministry of the Interior.
      The Technical Secretary-General of the Ministry of Industry, Energy and Tourism.
      The Director-General for Armament of the Ministry of Defence.
      The General Director-General of the National Centre for Intelligence of the Ministry of the Presidency.
      The Director-General of International Trade and Investment of the Ministry of the Economy and Competitiveness.

2. The Deputy Director-General for International Trade in Defence and Dual-use Material of the Ministry of the Economy and Competitiveness shall act as the Secretary of the JIMDDU with speaking but not voting rights.

3. In the event of resignation, absence, illness or other legal cause, the President shall be replaced by the Vice-president and, failing that, by the member of the collegiate body of highest rank, seniority and age, in that order, from among its members.

4. The Vice-president and Members may expressly name their own replacements for each meeting of the JIMDDU. These replacements must hold a post with minimum rank of Deputy Director-General or equivalent.

5. In the case of resignation, absence or illness, the Secretary shall be replaced by a civil servant appointed to the Deputy Directorate-General for International Trade in Defence and Dual-use Material.

6. When warranted due to the nature of affairs under consideration, the members of the JIMDDU may summon other Government representatives or area experts to Board meetings who will act with speaking but not voting rights.

7. The JIMDDU may, when necessary for the proper discharge of its assigned duties and for this sole purpose, gather information from the bodies and organisations of other National and lower level administrations needed to carry out its duties referred to in Article 18(1) and 18(4), always in compliance with the laws currently in force and especially with the provisions of the special legislation in respect of personal data protection.

8. The JIMDDU shall set up a working group comprised of representatives of all of the ministries forming part of this collegiate body with minimum rank of deputy director-general or equivalent for the purpose of discussing and drafting proposals to be submitted to the Board concerning affairs so requiring. The working group may meet with the participation of all or some of its appointed members or experts designated by the latter.

Article 18. Duties.

1. The JIMDDU is required to inform, on a compulsory and binding basis, the administrative authorisations referred to in Article 2 and the preliminary agreements and also their rectification, suspension or nullification and REOCE registration requests.

2. It is likewise required to report, on a compulsory basis, on the amendments it deems appropriate as regards regulations concerning external trade in defence material, other material and dual-use items and technologies.

3. It shall issue the reports referred to in paragraph 1 with due consideration of the criteria laid down in Article 7(1).


5. The JIMDDU may request additional information on a particular transaction before the head of the Secretariat of State for Trade awards an authorisation.

6. The JIMDDU may exempt the transactions described below in this section from the preliminary report and submission of control documents. In any case, these exemptions must not diminish the degree of control exercised over the transactions or over requisite guarantees. The Government shall inform on the type of transactions exempted in the report described in Article 19(2).

   a) The export-dispatch and import-introduction of items arising from defence cooperation programmes when classified as such by the Ministry of Defence pursuant to Article 24(2) a).
   b) The export-dispatch and import of items requested by bodies of the Ministry of Defence and by companies within the sector in compliance with maintenance or repair contracts concluded with the Armed Forces, providing that a favourable report is received from the Directorate-General for Armament and Material of the Ministry of Defence.
   c) Temporary export-dispatch and import for repair, checks, homologations, fairs and exhibits and permanent export-dispatch and import for the free-of-charge replacement of defective material and returns to origin. In addition to the foregoing and concerning transactions involving firearms, temporary transactions intended for hunting outings and sport shooting.
   d) The export-dispatch of fuels meeting military specifications sent to countries of the European Union and the North Atlantic Treaty Organisation, hereafter NATO.
   e) The export-dispatch of dual-use items and technologies intended for Member Countries of international non-proliferation and export control regimes by virtue of which the items intended for export are subject to control with the exception of the items included in Annex II of Council Regulation (EC) No 428/2009 of 5 May 2009 and subsequent amendments.
   f) The export-dispatch of items, equipment and technology which, included in the Controls of Military Goods and other Material of this Regulation and in Annex I of Council Regulation (EC) 428/2009 of 5 May 2009, have been eliminated from or are not included on the corresponding international lists.
   g) Introductions from other EU countries and imports from Australia Group member countries of the chemicals included on the Convention Lists of 13 January 1993 on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction, except the chemicals included in Annex I.1 of this Royal Decree and ricine and saxitoxin.
   h) Rectifications of authorisations having to do with effective term and monetary value.
   i) The dispatch of defence material components, subsystems and parts and related services arising from the use of a Global Licence for the Transfer of Components of Defence Material or a General License for Intra-community Transfers of Defence Material, provided that the said components, subsystems and parts are intended for incorporation into defence equipment and systems or to replace other components or subsystems dispatched at an earlier date or are temporary dispatches.

7. Where the operator submits a reasoned request expressing the need to engage in the export-dispatch, import-introduction or inscription in the REOCE before the JIMDDU meeting, an emergency procedure may be used. The Secretariat of the JIMDDU will inform all Board members of the transactions in question and shall request their consent which shall be assumed if they do not raise any objections within 48 hours.
8. The JIMDDU may likewise establish a supplementary procedure similar to the one just described, exclusively intended to expedite transactions involving hunting and sporting arms but without diminishing control over these transactions.

9. When the Secretariat of the JIMDDU receives a consultation from another Member Country pursuant to Article 11(1) of Council Regulation (EC) No 428/2009 of 5 May 2009 concerning a transaction subject to a report by the JIMDDU, the said consultation shall be sent to all of the members of the Board as swiftly as possible, the latter having a maximum of four working days to respond as from the date of issue and if there is no response it will be assumed that there are no objections and an answer will be formulated and forwarded to the requesting country.

10. The JIMDDU acting as the competent body in respect of external trade matters, in accordance with Article 2(10) of Royal Decree 663/1997 of 12 May 1997 regulating the makeup and duties of the national authority for the prohibition of chemical weapons, must coordinate efforts with the national authority for the prohibition of chemical weapons as concerns the import-introduction and export-dispatch of chemicals set out in the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction.

Section 4. Information and parliamentary control

Article 19. Information and Parliamentary control.

1. On a half-yearly basis the Government shall forward pertinent information to the Congress of Deputies on the export-dispatch of defence material, other material and dual-use items and technologies corresponding to the preceding reference period with at least an indication of the value of the exports per country of destination, descriptive categories of the items, technical assistance, end-use of the items, the public or private nature of the end user and refusals issued.

2. Each year the Government shall call on the head of the Secretariat of State for Trade to appear before the Defence Committee of the Congress of Deputies to report on the statistics of the preceding reference period.

3. The Defence Committee shall issue an opinion on the information received with recommendations for the following year. The head of the Secretariat of State for Trade shall report on the actions implemented in response to the said opinion.

CHAPTER II

Type and regime of authorisations

Article 20. Operations subject to authorisation.

1. The operations referred to in Article 2 and listed below, except for the exceptions envisaged in said Article 2, require administrative authorisation granted by the head of the Secretariat of State for Trade:

   a) Final authorisations.
   b) Temporary authorisations.
   c) Authorisations arising from temporary import-introduction when the country of destination does not coincide with the country of origin or when the defence or dual-use material intended for export-dispatch does not coincide with that declared in the import-introduction. An application may be submitted for a temporary import-introduction license for materials, items or technologies not subject to import control with a view to obtaining authorisation for their subsequent export providing that the country of destination coincides with the country of origin and the defence or dual-use material intended for export-dispatch coincides with that declared at the time of import-introduction.
   d) Authorisations arising from a temporary export-dispatch when the country of origin does not coincide with the country of destination or when the defence or dual-use material intended for import-introduction does not coincide with that declared in the export-dispatch.
   e) All brokering activity, i.e. activities carried out by natural or legal persons for the purpose of negotiating or arranging transactions in Spanish territory which could imply the
transfer of articles on the EU Common List of Military Equipment from a third country to any other third country or for the purpose of buying, selling, or arranging for the transfer of the said articles of their property from a third country to any other third country.

f) The rendering of brokering services in respect of dual-use items and technologies.

2. This authorisation could fall into one of the following categories depending on the case:

   a) Individual Transfer License for defence material, other material and dual-use items and technologies.
   b) Global Transfer License for defence material, other material and dual-use items and technologies.
   c) Global Project Licence for the transfer of defence material.
   d) European Union General Export Authorisation for Dual-use Items and Technologies.
   e) Brokering authorisation.
   f) Preliminary Transfer Agreement for defence material, other material and dual-use items and technologies.
   g) General License for Intra-community Transfers of Defence Material.
   h) Global Licence for the Transfer of Components of Defence Material.


Transfers to third countries of firearms for civilian use included in Annex II.1 of this Regulation shall be interpreted in accordance with the provisions of Regulation (EU) No 258/5012 of the European Parliament and of the Council of 14 March 2012.

Article 22. Individual Transfer License for defence material, other material and dual-use items and technologies.

1. The Individual Transfer License for defence material, other material and dual-use items and technologies allows the holder to dispatch one or several shipments of the materials, items and technologies included in the said authorisation until reaching the maximum quantity established, to a specific recipient, to or from a specific country and within a period of 12 months. Subject to a reasoned request filed by the exporter, a maximum of two renewals may be authorised with the same effective term as the original license as from the expiration date of the previous one. This requires a rectification request.

2. This type of license shall also be used to authorise the permanent and temporary export-dispatch of the defence material referred to in Article 24(2) a) originating in other States party to the Framework Agreement of 27 July 2000 implementing the Letter of Intent for the restructuring and integration of the European defence industry of 8 July 1998, to States which are not party to the said Framework Agreement. The countries of destination of these transactions shall be those included on the List of Eligible Destinations pursuant to the provisions of the Implementing Convention of Export and Transfer Procedures for the Global Project License.

3. The request shall be processed using the form entitled ‘Transfer Licence for defence and dual-use material’ included in Annex VI.1. The request form shall indicate, if relevant, its link to a previous agreement or a processing transaction.

4. An individual licence may also be used for the permanent export and import of the firearms for civilian use, their parts and essential components and ammunition included in Annexes II.1 and III.2 providing that they are not among the cases described in Article 23. The information corresponding to the marking of firearms must be notified in the license itself wherever possible or at the very latest to the Arms and Explosives Intervention Unit (ICAE) before their transfer. Weapon markings must adhere to the provisions of Article 28 of the Weapons Regulation approved by Royal Decree 137/1993 of 29 January 1993.

In export-dispatch transactions involving firearms for civilian use their parts and essential components and ammunition (Annex II.1), the Secretariat of State for Trade shall
require that licenses be accompanied by a document certifying that the importing countries have issued the corresponding import licenses or authorisations.

Prior to the issue of an authorisation for the civilian-use items included in Annex II.1, the third countries of transit, if relevant, shall inform the Deputy Directorate-General for International Trade in Defence and Dual-use Material in writing before the items are dispatched that they do not oppose the transit. This provision shall not apply to:

a) Dispatches by sea or air and through ports or airports of third countries providing that no transhipment is made and the means of transport is not changed.

b) In the case of temporary exports for legal and verifiable purposes such as hunting and sport shooting, evaluation, exhibitions without sales and repairs.

The Secretariat of State for Trade may decide that if it does not receive any formal communication within 20 working days from the date of the written request submitted by the exporter, the third country of transit does not object to the transit.

5. In the case of temporary transfer, the operator must re-transfer the goods within a maximum period of 12 months. This dispatch is authorised by the transfer license during its effective term. Notwithstanding the foregoing, the operator may request the permanent transfer of all or some of the items or technologies included under the license in accordance with permanent transfer proceedings even if the country of destination and the recipient do not match those stipulated on the temporary license.

6. If the items or technologies intended for export incorporate items or technologies included in Annex I or II of this Regulation or Annex I of Council Regulation (EC) No 428/2009 of 5 May 2009 and originate in non EU member countries, or in Annex IV of the said Regulation in the case of dispatches to EU Member States, the applicant must list the said materials on the 'Supplementary Sheet' included in Annex VI.2 specifying their proportion of the total amount of goods intended for export-dispatch.

7. An Individual Transfer License for defence material, other material and dual-use items and technologies shall be used in the following cases:

a) Where necessary to protect essential national security interests or for reasons of domestic policy.

b) Where necessary to meet Spain's international obligations and commitments.

c) Where the conditions laid down in Article 23(2) for the use of Global Transfer Licences for defence material, other material and defence and dual-use items and technologies and for the use of General Transfer Licenses for defence material are not met.

Article 23. Global Transfer License for defence material, other material and dual-use items and technologies.

1. The Global Transfer License for defence material, other material and dual-use items and technologies, authorises the holder to undertake an unlimited number of shipments of the materials covered by the authorisation, to one or several recipients and to or from one or several specified countries of destination, as the case may be, up to the maximum authorised value and within an extendible three-year period. Subject to a reasoned request filed by the exporter, a maximum of two renewals may be authorised with the same effective term as the original license as from the expiration date of the previous one. This requires a rectification request.

2. The operations referred to in Article 2 may be covered by this type of license, providing that the relation between the exporter and the recipient is characterised by one of the following circumstances:

a) Between the parent company and one of its subsidiaries or between subsidiaries of the same company.

b) Between the manufacturer and exclusive distributor.

c) Within a contractual framework entailing a regular commercial flow between the exporter and the end user of the exported material.

3. The request shall be processed using the form entitled 'Transfer licence for defence and dual-use material' included in Annex VI.1.
4. A Global License may also be used for the permanent export and import of the firearms for civilian use, their parts and essential components and ammunition included in Annexes II.1 and III.2 for the cases described in section 2. The information corresponding to the marking of the firearms must be notified in the license itself wherever possible or at the very latest to the ICAE before their transfer. Weapon markings must adhere to the provisions of Article 28 of the Weapons Regulation approved by Royal Decree 137/1993 of 29 January 1993.

In export-dispatch transactions involving firearms for civilian use their parts and essential components and ammunition (Annex II.1), the Secretariat of State for Trade shall require that licenses be accompanied by a document certifying that the importing countries have issued the corresponding import licenses or authorisations.

Prior to the issue of an authorisation for the civilian-use items included in Annex II.1, the third countries of transit, if relevant, shall inform the Deputy Directorate-General for International Trade in Defence and Dual-use Material in writing before the items are dispatched that they do not oppose the transit by filling in the form attached as Annex VI.4. This provision shall not apply to:

a) Dispatches by sea or air and through ports or airports of third countries providing that no transhipment is made and the means of transport is not changed.

b) In the case of temporary exports for legal and verifiable purposes such as hunting and sport shooting, evaluation, exhibitions without sales and repairs.

The Secretariat of State for Trade may decide that if it does not receive any formal communication within 20 working days from the date of the written request submitted by the exporter, the third country of transit does not object to the transit.

5. In the case of export-dispatch, the applicant must provide a breakdown of the components of the total maximum value which corresponds to each country of destination. Furthermore, within each country, the applicant must define the materials intended for transfer by means of the corresponding article or sub-article, as the case may be, in Annex I or II of this Regulation or Annex I of Council Regulation (EC) No 428/2009 of 5 May 2009 and its subsequent amendments, also stipulating the quantity and monetary value of each one.

6. If the materials, items or technologies intended for export-dispatch include any of those listed in Annex I or II of this Regulation or Annex I of Council Regulation (EC) No 428/2009 of 5 May 2009 and subsequent amendments and originate in other countries, the applicant must list them on the 'Supplementary Sheet' included in Annex VI.2 specifying their origin and their proportion of the total amount of goods intended for export-dispatch.

Article 24. Global Project Licence for the transfer of defence material.

1. The Global Project License for the transfer of defence material authorises the holder to undertake an unlimited number of shipments of the materials covered by the authorisation to one or several recipients and to one or several specified countries of destination up to the maximum authorised value and within a three-year period. Subject to a reasoned request filed by the exporter, a maximum of two renewals may be authorised with the same effective term as the original license as from the expiration date of the previous one. This requires a rectification request.

2. Permanent and temporary export-dispatch and import transactions of defence material meeting any of the following conditions may be covered by this type of licence:

a) Those arising from an armament cooperation programme under the Framework Agreement of 27 July 2000 implementing the Letter of Intent for the restructuring and integration of the European defence industry of 8 July 1998, or any other international armament cooperation programme endorsed by the Spanish Government in which one or several companies established in Spain participate. 'Armament cooperation programme' shall mean any joint activity including, inter alia, the study, evaluation, assessment, research, design, development, building of prototypes, production, improvement, modification, maintenance, repair and other post-design services undertaken within the framework of an international agreement or convention between two or more States for the purpose of acquiring defence material or related defence services.

b) Those arising from non-governmental defence material development or production programmes in which one or several transnational defence companies (TDC) established in
Spain participate as per article 2 o) of the aforementioned Framework Agreement, providing that the company or companies have been granted authorisation from the Ministry of Defence demonstrating that the programme in question meets the requirements laid down in the said Framework Agreement.

c) In the initial stage of industrial cooperation, the export-dispatch and import of equipment and components to/from other companies taking part in the said initial stage.

d) In the case of items returned to their place of origin following temporary export-dispatch and import for the purpose of repair, testing and homologation of the materials initially described in the Global Project License for the transfer of defence material.

3. The application shall be processed by means of the form entitled 'Global Project License for the transfer of defence material' included in Annex VI.6.

4. The applicant must provide a breakdown of the components of the total maximum value which corresponds to each company and country. Moreover, the applicant must define the materials intended for export or import by article or sub-article, as the case may be, corresponding to the Military Goods Controls, and must also stipulate the monetary value of each one.

5. Before authorising the re-export/re-dispatch of material located in Spanish customs territory arising from a programme such as the one described in paragraph 2, the Spanish authorities must obtain the approval of the States taking part in the said programme.

6. The Global Project License for the transfer of defence material may be applied to those programmes already existing on the date that this Regulation enters into force.

7. If the item intended for export-dispatch contains materials listed under Military Goods Controls originating in other countries, the applicant must list the said materials on the 'Supplementary Sheet' included in Annex VI.7 specifying their origin and their proportion of the goods intended for export-dispatch.

8. An individual defence material transfer license shall be used to authorise the dispatch of materials arising from a programme such as the one described in paragraph 2 a) to countries appearing on the List of Eligible Destinations pursuant to the provisions of the Implementing Convention of Export and Transfer Procedures under the Global Project License.


2. Pursuant to the requirements laid down in the above-mentioned Regulation, the operator shall notify the Secretariat of State for Trade, in writing at least ten days prior to the first transfer, that said operator is invoking this general authorisation procedure and, pursuant to these authorisations, explicitly commits to:

   a) Undertake exports, under these general authorisations, which strictly adhere to the authorised items and destinations and comply with all conditions and requirements specified therein.

   b) Individually manage the documentation required for the exports undertaken under the said procedure. Said management must at least include a description of the items including the corresponding sub-article(s) from Annex I of Council Regulation (EC) No 428/2009 of 5 May 2009, the amounts individually transferred and the date, name and address of the exporter as well as the name and address of the recipient and user, the public or private nature of the end user and end use where applicable. If exported items or technologies include items or technologies listed in Annex I of Council Regulation (EC) 428/2009 of 5 May 2009 and originate from other non-EU member countries, their proportion out of the total amount of goods exported must be specified.

   c) Make available to the Secretariat of State for Trade and the Department of Customs and Excise Duties of the National Tax Administration Agency, the documentation described in the preceding sub-paragraph and any other relevant information concerning the exports undertaken under the general authorisations, to allow for necessary verifications. Forward the documentation indicated in sub-paragraph b) on a half-yearly basis to the Deputy-directorate...
General for International Trade in Defence and Dual-use Material corresponding to the previous six-month period for the purpose of drawing up the statistics referred to in Article 19 of this Royal Decree.

d) Put the legend appearing below on invoices and transport documents accompanying the goods and procure a commitment of compliance in this connection from the recipient: ‘The export of these items is undertaken by means of a general authorisation and may only be dispatched to the authorised destinations. These items may not be re-exported without the authorisation of the corresponding country’.

e) Inform the authorities and suspend the said transfer until an expressed authorisation is obtained if it is discovered that the items or technologies are being used (or could be used), in their entirety or in part, for the development, production, handling and operation, maintenance, stockpiling, detection, identification or dissemination of chemical, biological or nuclear weapons or of other explosive nuclear devices or the development, production, maintenance or stockpiling of missiles capable of carrying these weapons.


1. The brokering activities envisaged under Article 2(1) c) shall require written authorisation from the Secretariat of State for Trade, duly informed by the JIMDDU.

2. The operator shall furnish information regarding the materials, items or technologies included in the transaction, the natural or legal persons involved, the countries of origin and destination, the transit countries, modes of transportation and financing methods used.

3. Before authorising any brokering transaction, the Secretariat of State for Trade shall exchange the necessary information with other Member States of the European Union pursuant to Article 5 of Council Common Position 2003/468/CFSP of 23 June 2003 on the control of arms brokering.

4. Where an authorisation is required for the provision of brokering services involving dual-use items and technologies pursuant to Article 20(1) f), it shall be issued by the Secretariat of State for Trade, duly informed by the JIMDDU.

Article 27. Preliminary Transfer Agreement for Defence Material, Other Material and Dual-use Items and Technologies.

1. The Preliminary Transfer Agreement implies the initial consent of the Administration as concerns the transactions arising from the agreement. A request for such an agreement may be submitted in the case of a project from/to a particular country within the framework of a contract, either concluded or under negotiation, which requires a long period of execution.

2. The effective term of the preliminary agreement shall not exceed three years. If the contract already concluded or under negotiation calls for an extension of the supply term, a longer effective term may be authorised on an exceptional basis.

3. The transactions arising from a Preliminary Agreement shall require a Transfer Licence which must conform to the conditions declared and approved in the said Preliminary Agreement. The Preliminary Agreement may not be used for customs clearance.

4. The application for the Preliminary Agreement shall be processed using the form entitled ‘Preliminary agreement for the transfer of defence material, other material and dual-use material’ or ‘Preliminary agreement for a Global Project License for the transfer of defence material’ included in Annexes VI.5 and VI.8 respectively.


1. In application of 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, the Secretariat of State for Trade publishes general transfer licences for defence material authorising the suppliers inscribed in the REOCE that meet the terms and conditions on the use of said licences to undertake intra-Community transfers of defence-related products. The General Licence for the intra-community transfer of defence material may be used within the European Economic Area (EEA).

2. The General License for the intra-community transfer of defence material authorises the supplier to make an unlimited number of shipments of defence-related products to one or
more recipients and to one or more countries of the European Union, Iceland, Liechtenstein or Norway with no time limit.

3. These transfers shall consist of the articles listed in Annex IV.

4. Following are the types of General Licenses for the intra-community transfer of defence material:

   GL1 for the Armed Forces: when the recipient is part of the Armed Forces of any country of the EU or EEA, is a contracting authority in the field of defence or procures material for the exclusive use of the Armed Forces of an EEA country.

   GL2 for certified undertakings: when the recipient is an undertaking certified by the authorities in any of the countries of the European Union or the EEA, in accordance with the procedure laid down in Article 9 of Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 and Article 28(7) of this Regulation.

   GL3 for demonstration, evaluation and exhibition: where the transfer is temporary and for the purpose of demonstration, evaluation and exhibition.

   GL4 for maintenance and repair: where the transfer is for the purpose of maintenance and repair.

   GL5 for NATO: where the transfer is the result of the participation of Spain's Ministry of Defence and of Spanish undertakings in NATO activities and operations and those of the NATO Support Agency (NSPA).

5. Brokering operations in the sphere of defence are explicitly excluded from General Licenses for the intra-community transfer of defence material.

6. The supplier shall notify the Secretariat of State for Trade, by means of the form called the 'General License for the intra-community transfer of defence material' included in Annex VI.9, together with the supplementary sheets found in Annex VI.10 where necessary, at least 30 days before the first transfer made under any of these General Transfer Licenses and, upon receiving said authorisation, specifically commits to:

   a) Undertake transfers while strictly adhering to the authorised items, destinations and recipients.

   b) Uphold the terms and conditions of the General Transfer License for defence material, including limitations on the export of defence-related products to natural or legal persons in third countries. Suppliers shall inform recipients of the terms, conditions and limitations of the General License as concerns the end use or export of these items.

   c) Individually manage the documentation required for the transfers made under the said procedure. This documentation must at least include a description of the materials, including the corresponding sub-article of the defence material list, the amounts and values of the materials transferred, the dispatch dates, name and address of the consignor, name and address of the consignee and end-user as well as end use. Proof must also be provided that the recipient of the defence-related items has been informed of the possible export limitations associated with the General License for the intra-community transfer of defence material.

   d) Forward the documentation indicated in the preceding paragraph corresponding to the preceding six months to the Deputy Directorate-General for International Trade in Defence and Dual-use Material together with any additional relevant information concerning transfers made for the purpose of performing the necessary checks and drawing up the statistics referred to in Article 19.

   e) Put the following legend on invoices and transport documents accompanying the goods and procure a commitment of compliance in this connection from the recipient:

   'Dispatch of this material is by means of a General License for the intra-community transfer of defence material and is solely intended for shipment to European Union Member States. These materials may not be exported without the authorisation of the competent authorities unless the country of destination belongs to NATO or is a member of the main international non-proliferation export control fora (Wassenaar Arrangement, Australia Group, Nuclear Suppliers Group, Missile Technology Control Regime and the Zangger Committee)'.

7. The head of the Secretariat of State for Trade of the Ministry of the Economy and Competitiveness, subject to verification of the criteria listed below and duly informed by the JIMDDU, may issue certificates to undertakings so requesting that are registered in the REOCE,
authorising them to receive certain defence material from EEA countries in accordance with the General Transfer Licenses drawn up by other Member States. The following criteria shall be taken into consideration:

a) Furnish evidence of proven experience in defence activities, particularly taking into account operators' compliance with export restrictions and all court decisions regarding these matters, and whether they have been authorised to produce or commercialise defence material and have hired experienced managers.

b) Demonstrate that they are involved in industrial activity in the sphere of defence material within the European Union, especially their ability to integrate systems and subsystems.

c) Appoint a director within the firm to be personally responsible for the internal compliance programme or management system of the transfers and exports used by the firm and for the personnel entrusted with controlling transfers and exports. The said director must be a member of the firm's management team. His post must not pose a conflict of interests.

d) Submit a commitment in writing, signed by the natural person responsible referred to in the previous paragraph, stating that the operator shall take all necessary measures to comply with and enforce all conditions related to the end use and export of the products or components received. The undertaking shall also furnish the Secretariat of State for Trade with detailed information concerning users or the end use of all products exported, transferred or received by the undertaking pursuant to a General Transfer License from another Member State, and shall provide the competent bodies of the National Tax Administration Agency with detailed and timely information when so requested or as part of investigations into such matters.

e) The certification request must be accompanied by a description, duly countersigned by the responsible party referred to in sub-paragraph c), of the internal compliance programme of the transfer and export management system used by the operator. This description must detail the organisational, human and technical resources allocated to transfer and export management, the chain of responsibility in the structure of the operator, internal audit procedures, staff training, physical and technical security arrangements, records management and monitoring of transfers and exports.

8. The certification referred to in paragraph 7 shall contain the following information:

a) The competent authority issuing the authorisation, i.e. the head of the Secretariat of State for Trade of the Ministry of the Economy and Competitiveness.

b) The name and address of the recipient.

c) A declaration of the recipient's conformity with the criteria laid down in paragraph 7.

d) The date of issue of the certificate and its duration.

9. The certification request shall be processed using the form entitled 'Certification request form for the use of General Licenses' included in Annex VI.11.

10. The certificate form is included in Annex VI.12.

11. The certificate is valid for five years. At least once every three years, the Secretariat of State for Trade must check that recipients are adhering to the criteria laid down in paragraph 7. That check must adhere to Commission Recommendation 2011/24/EU of 11 January 2011 on the certification of defence undertakings under Article 9 of Directive 2009/43/EC of the European Parliament and of the Council simplifying terms and conditions of transfers of defence-related products within the Community. If the recipient fails to meet these criteria, it may face temporary suspension until full compliance is achieved or the certificate may be revoked in which case this fact must be communicated to the recipient, the Commission and the other member states.

12. The Secretariat of State for Trade shall publish and update a list of certified recipients that are authorised to use the General License for the transfer of defence material and the said list must be forwarded to the European Commission, the European Parliament and the other Member States.


1. The Global License for the transfer of components of defence material authorises the holder to undertake an unlimited number of shipments of defence material components, subsystems and parts and associated services to one or several recipients and to one or several specified countries of destination up to the maximum authorised value and within a three-year period. Subject to a reasoned request filed by the exporter, a maximum of two renewals may be authorised with the same effective term as the original license as from the expiration date of the previous one. This requires a rectification request.

2. 'Services' shall mean the testing, inspection, maintenance, repair, training, technical assistance and supply of technical information coupled with the transfer of components, subsystems and parts.

3. This type of license may cover permanent and temporary dispatch transactions of components, subsystems and parts of defence material and associated services that meet the following conditions:

   a) Components, subsystems and parts must be included on the List of Components in Annex V.1.
   b) Holders of these authorisations must be legal persons residing in Spanish territory.
   c) The end users of these shipments shall be the Armed Forces of the signatory states of the 27 July 2000 Framework Agreement implementing the Letter of Intent for the restructuring and integration of the European defence industry of 8 July 1998 and those legal persons established in the territory of any of the signatory states, provided that they are recognised as beneficiaries in the use of the said license by the corresponding state and that the defence material components, subsystems and parts, and related services, are intended for use by their Armed Forces. Each state shall provide all of the other signatory states of the Framework Agreement with the list of legal persons authorised to use the Global License for the transfer of components of defence material.

4. The application shall be processed by means of the form entitled 'Global License for the transfer of defence material components' included in Annex VI.13.

5. The applicant must provide a breakdown of the components of the total maximum value which corresponds to each company and country. The applicant must also define the defence material components, subsystems and parts and related services intended for dispatch or introduction, using the article or sub-article, as the case may be, from the List of Components, and must also stipulate the monetary value of each.

6. An Individual Transfer License for defence material shall be used to authorise dispatch and export transactions of the defence equipment or systems comprising the components, subsystems and parts to countries on the List of Eligible Destinations included in Annex V.2.

7. Before authorising export transactions of defence equipment or systems comprising the components, subsystems and parts introduced into Spanish customs territory by means of a Global License for the transfer of defence material components to countries not appearing on the List of Eligible Destinations, Spanish authorities must consult the State(s) of origin of said components.

Article 30. Applicable control document forms.

1. Pursuant to Article 4, applications for the licenses or authorisations provided for in the preceding articles for the transfer of defence material, other material and dual-use items and technologies, must be accompanied by one of the following control documents:

   a) 'International Import Certificate' or equivalent document: issued by the competent authorities of the country of import or introduction for the export and dispatch of defence material for military use included on the List of Weapons of War in Annex III.1 and of other material in Annex II.2, destined for any of the countries listed in Annex V.2.

   b) 'Certificate of Final Destination': issued by the competent authorities of the country of import or introduction for the export and dispatch of defence material for military use included on the List of Weapons of War in Annex III.1 and of other material (Annex II.2), destined for countries not listed in Annex V.2. The Certificate of Final Destination is issued by the competent authority of the country of destination of the goods and may be legalised in accordance with
applicable laws, either through diplomatic channels or by means of The Hague Apostille legalisation procedure if the country adheres to that Convention. Where diplomatic channels are used, it may be legalised by Spain's representative in the issuing country or by the representative of the issuing state in Spain. In both cases, the process must be performed by a diplomat whose signature is registered with the legalisation section of Spain's Ministry of Foreign Affairs and Cooperation. Documents of this kind also require subsequent legalisation by the Ministry of Foreign Affairs and Cooperation.

c) 'Declaration of Final Destination' for dual-use items and technologies: issued by the final recipient for export-dispatch and import-introduction, as the case may be, of dual-use items and technologies, using the form found in Annex VI.20 or similar document. In the case of transfers of chemicals included on List 3 to states that are not party to the Chemical Weapons Convention and where the JIMDDU deems it appropriate, this 'Declaration of Final Destination' must be endorsed by the authorities of the state receiving the products.

d) 'Declaration of Final Destination' for the items included in Annex II.1 and defence material: issued by the final recipient for the export of firearms for civilian use their parts and essential components and ammunition included in Annex II.1 and for export-dispatch of defence material not included on the Weapons of War List (Annex III.1), using the form found in Annex VI.21 or similar document. Where the JIMDDU deems it appropriate, this 'Declaration of Final Destination must be endorsed by the competent authorities of the state receiving the products.

The final destination certificates shall at least reflect the commitment to import-introduce items or technology into the country of destination and to not re-export/re-dispatch them without the prior written authorisation of the competent authorities, and to use the said material for the end-use declared.

Where items intended for export-dispatch contain materials previously imported-introduced with conditions for use or final destination specified in a Certificate of Final Destination, the operator must first establish, before the Directorate-General for Armament and Materiel of the Ministry of Defence, that the authorities of the country of origin of the materials have waived these conditions.

Notwithstanding the provisions of paragraph 1, the exporter may be exempted from submission of the aforementioned documents or other documents could be required.

Requests for dispatch transactions of defence material components, subsystems and parts and related services arising from the use of a Global Licence for the transfer of components of defence material or a General License for intra-community transfers of defence material shall not be accompanied by an end use control document, providing that the said components, subsystems and parts are intended for incorporation into defence equipment and systems or to replace other components or subsystems dispatched at an earlier date.

2. Concerning import-introduction transactions of defence material and dual-use items and technologies, the following documents may be issued as required by the authorities of a country for the control of exports-dispatch:

   a) 'International Import Certificate': issued by the Directorate-General for Armament and Materiel of the Ministry of Defence for the import-introduction of defence material using the form found in Annex VI.16.

   b) 'International Import Certificate': issued by the Secretariat of State for Trade of the Ministry of the Economy and Competitiveness for the import-introduction of dual-use items and technologies using the model found in Annex VI.17.

   c) 'Certificate of Final Destination': issued by the Directorate-General for Armament and Materiel of the Ministry of Defence for the import-introduction of defence material using the form found in Annex VI.18 upon request using the form found in Annex VI.19

3. In cases so requiring, the JIMDDU may call for support documentation proving that the defence material, other material and dual-use items and technologies which are the object of the transaction have indeed been imported-introduced into the territory of the country of destination. This documentation shall consist of a certificate of entry or customs document equivalent to a customs release. The Department of Customs and Excise Duties of the National Tax Administration Agency may also issue, if so required by the authority of an exporting country, an Entry Verification Certificate using the form found in Annex VI.22.

4. These documents may not be released to third parties and shall have, for the purpose of submission to the authorities of the country of origin, an effective term of six months.
Article 31. Procedure.

1. Processing of the administrative authorisations and of the preliminary agreements referred to in this Regulation, shall be initiated via the submission of the duly completed application form, or letter in the case of the general authorisation, at the general register of the Ministry of the Economy and Competitiveness or at the territorial and provincial trade directorates. The said forms may also be submitted at any of the locations provided for under Article 38(4) of Law 30/1992 of 26 November 1992, amended by Law 4/1999 of 13 January 1999. These forms may also be submitted and processed electronically via the electronic offices and registries established for that purpose in accordance with Order ECC/523/2013 of 26 March 2013 creating and regulating the electronic registry of the Ministry of the Economy and Competitiveness.

2. Administrative authorisations and preliminary agreements must be accompanied by the necessary technical documentation in the cases deemed necessary by the Secretariat of State for Trade.

3. The granting or denial of the administrative authorisations and of preliminary agreements referred to in the preceding paragraph shall be the responsibility of the head of the Secretariat of State for Trade, duly informed by the JIMDDU pursuant to Articles 5 and 18. Decision-taking power and the signing of the attendant documents may be delegated in accordance with the terms of Law 30/1992 of 26 November 1992.

4. When changes arise in the circumstances of the transaction during the effective term of the license issued, the head of the Secretariat of State for Trade, duly informed by the JIMDDU, may authorise the rectification of the particular requirements or conditions of the licence that affect solely the value and effective term of the license. The effective term of the rectification shall be the same as that of the original license as from the expiration date of the current license. A maximum of two rectifications may be requested with respect to the original license.

5. Rectification requests shall be processed using the form entitled "Transfer Licence for defence and dual-use material" or "Global Project License for the transfer of defence material" included in Annexes VI.1 and VI.6 respectively.

6. The customs procedure authorisation requested shall be made contingent upon the submission of the mandatory administrative authorisations which must be placed at the disposal of Customs. However, the requests covered by this Regulation may be submitted and processed electronically via the electronic offices and registries established for that purpose.

7. The Secretariat of State for Trade will electronically forward the data concerning the administrative authorisations issued and which must be presented at Customs to the National Tax Administration Agency. This electronic communication exempts the applicant from having to submit said data unless customs clearance requires documentary or physical analysis.

8. The flow of information from the National Tax Administration Agency to the Secretariat of State for Trade in application of this Regulation shall be by electronic means.

9. The Secretariat of State for Trade and the National Tax Administration Agency shall agree on the appropriate electronic procedures to apply this Regulation.