

MINISTRY OF FOREIGN AND EUROPEAN AFFAIRS

817

Pursuant to Article 12, paragraph 1 of the Act on the Control of Dual Use Items (*Official Gazette* 80/11 and 68/13) and Article 7 of the Act on the Organization and Scope of Work of the Ministries and Other State Administrative Organizations (*Official Gazette* 150/11, 22/12, 39/13, 125/13 and 148/13), the First Vice-President of the Government and Minister of Foreign and European Affairs hereby issues the

ORDINANCE

ON APPLICATION FORMS FOR THE ISSUANCE OF LICENCES FOR DUAL-USE ITEMS

Article 1

This Ordinance prescribes the format and content of application forms for the issuance of export licences and transfer licences for dual-use items, brokering licences, and licences for technical assistance provision, as well as the list of documents to be attached to such applications, the conditions for global licence issuing and the application form for the certificate for using the General Export Licence of the European Union.

Article 2

(1) Applications for export licences and transfer licences pursuant to Article 9, points a), b), and d), and Article 13, paragraph 2 of the Act on the Control of Dual Use Items (*Official Gazette* 80/11 and 68/13) shall be submitted to the Ministry of European and Foreign Affairs (hereinafter: the Ministry), in line, in form and content, with the application form attached to this Ordinance (Annex I).

(2) Applications for brokering licences for dual-use items pursuant to Article 9, point c) of the Act shall be submitted to the Ministry in line, in form and content, with the application form attached to this Ordinance (Annex II).

(3) Applications for technical assistance licences for dual-use items pursuant to Article 9, point e) of the Act shall be submitted to the Ministry in line, in form and content, with the application form attached to this Ordinance (Annex III).

(4) Applications for the issuance of certificates on the use of the EU General Export Licence pursuant to Article 13, paragraph 7, of the Act shall be submitted to the Ministry in line with

the form and content prescribed in the application form attached to this Ordinance (Attachment IV).

Article 3

- (1) All items in the application shall be properly and legibly filled out.
- (2) Applicants shall list the correct dual-use item number, pursuant to Annex I of the Council Regulation (EC) No. 428/2009 of 5th May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29 May 2009, page 1, recast; hereinafter: Regulation 428/2009/EC), and shall be responsible for the accuracy and truthfulness of information provided in the application.
- (3) At the request of the Ministry, applicants shall submit additional information and documents proving the statements made in the application form.

Article 4

- (1) Applications for dual-use items individual export licences or transfer licences, brokering licences or technical assistance licences must be accompanied by the following documents:
 - an original end-use certificate – certified by a competent state authority or an end-user statement certified by an authorized person and containing information about end-use and a statement that the items concerned shall not be re-exported without the consent of the Ministry
 - the number of the authorization or licence issued by the competent authority for performing the activity, if prescribed by the law
 - a copy of the document containing the technical characteristics of dual-use items (in case of chemicals, the safety data sheets),
 - an original or certified copy of the contract signed with the importing company, or a pro-forma invoice or purchase order, and an original or certified copy of a contract signed with a potential broker,
 - proof of paid administrative fees.
- (2) In addition to the documents referred to in paragraph 1 hereof, applications for brokering licences shall be accompanied by an original or a certified copy of the contract signed with the exporting company, or a pro forma invoice and a certified copy of the exporting country's export licence.
- (3) In addition to the documents referred to in paragraph 1 hereof, applications for global licences must be accompanied by proof of an established internal compliance program (hereinafter: the program).

(4) Program verification shall be performed by the Committee for the control of dual-use goods on the basis of a written application.

(5) Should the Committee issue a positive opinion, the first vice-president of the Government and minister of foreign and European affairs shall issue a decision confirming that the company concerned has established the program.

(6) The decision from paragraph 5 of this Article shall be issued for a period of three years, after which it can be renewed for the same period of time.

(7) If needed, the Ministry can request additional documents proving the statements made in the application form.

Article 5

(1) The program from Article 4, paragraph 3, shall contain the following basic elements:

1. Statement on company policy for export control of dual-use items
2. Appointment of employees responsible for export control
3. Administrative and transactional record-keeping
4. Training for employees working on export control
5. Internal audit, in line with the procedures prescribed in the program
6. Order processing in line with the program
7. Informing the competent state authorities in case of unauthorized or suspicious activities
8. Vetting of entities with limited rights (natural or legal entities)
9. Classification of products and technologies, in order to determine if the items are controlled, or if they are mentioned in Annex I of regulation 428/2009/EC
10. Risk assessment for diversion of goods from an approved destination

(2) When preparing a program, the exporter may use the templates and guidelines available on the Ministry's website.

Article 6

At the request of the Ministry, exporters or brokers shall present an importer delivery verification certificate for dual-use items, certified by the competent authority in the importing country.

Article 7

Applicants shall, at the request of the Ministry, present an original or certified copy of the import licence, or an original import certificate of the country into which the goods are exported.

Article 8

(1) If an application is incomplete, the applicant shall make the necessary corrections or present the missing documents within 15 days of being so notified.

(2) If the applicant fails to send in the missing information within the prescribed deadline or fails to make the necessary corrections of which they have been notified, their application will be considered withdrawn.

Article 9

(1) Pursuant to Article 19, paragraph 1 of the Act, exporters, brokers or technical assistance providers shall, within 15 days of dual-use items export or service provision, deliver to the Ministry a report of the transaction effected, in line with the form attached hereto (Annex V).

(2) Pursuant to Article 13, paragraph 7, users of EU General Export Licences shall inform the Ministry of their transactions twice a year, by 15th July and by the 15th January, in line with the form attached hereto (Annex VI).

Article 10

Unused individual or global export licences, transfer licences, brokerage licences or technical assistance licences shall be returned to the Ministry by the service provider within 8 days of licence expiry, along with a written explanation of the reasons therefor.

Article 11

If the case of loss of individual or a global export licences, transfer licences, brokerage licences or technical assistance licences, the exporter or service provider shall promptly inform the Ministry thereof, and the Ministry shall issue a decision to end the validity of the licence from the date on which such a notification was received.

Article 12

When submitting applications for individual or global export licences, transfer licences, brokerage or technical assistance licences, all attached documentation must be provided translated into Croatian by a certified court interpreter.

Article 13

Exporters or brokers shall ensure that:

1) the items listed for export match the description on the export licence

- 2) the quantities and values of exported goods match the quantities and values on the export licence
- 3) exports take place during the validity of the export licence
- 4) exported items are transported to the destination stated on the export licence
- 5) all the specific conditions listed in the export licence are met.

Article 14

Technical assistance providers shall ensure that:

- 1) the service actually provided matches the service description stated in the licence,
- 2) the deadlines and conditions under which the licence for technical assistance was issued are met.

Article 15

On the date of entry into force of this Ordinance, the Ordinance on the application form for the issuance of import licences for dual-use items and for the provision of brokering services and technical assistance (*Official Gazette* 118/12) shall cease to have effect.

Article 16

This ordinance shall enter into force on the 8th day following its publication in the *Official Gazette*.

Class:

011-02/14-03/5

No:

521-K-02-14-2

Zagreb, 20th March 2014