

**REPUBLIC OF ALBANIA
THE PARLIAMENT**

L A W

No. 9707, dated 5 April 2007

**ON STATE IMPORT-EXPORT CONTROL OF MILITARY GOODS
AND DUAL-USE GOODS AND TECHNOLOGIES**

Pursuant to Articles 78 and 83, point 1, of the Constitution of the Republic of Albania, upon the proposal by the Council of Ministers,

**T H E P A R L I A M E N T
OF THE REPUBLIC OF ALBANIA**

D E C I D E D:

CHAPTER I

GENERAL PROVISIONS

Article 1

Purpose

This Law governs state control of export, import, transshipment, transfer of and brokering activities with military goods and dual-use goods and technologies, with a view to [protecting] the national interests of the Republic of Albania, overseeing observation of its commitments to international treaties on non-proliferation of weapons of mass destruction and their launching systems, impeding transfer of conventional weapons, and adhering to measures designed to prevent use of these goods by terrorists and other groups for illegal purposes.

Article 2

Definitions

The terms used in this Law shall have the following meaning:

1. “International transfer of goods”: export, import, and re-export of goods, their temporary movement inside or outside of the territory of the Republic of Albania, transit of goods across its territory and any other transfer outside of this territory in which different entities are involved.

2. “Export”:

a) legal sale or transfer of goods to a foreign entity engaged in economic activities or other activities, with the movement of goods outside of the customs-controlled borders of the Republic of Albania being entailed or not, as well as re-export of goods, including sale or transfer of goods to a foreign diplomatic representative in the territory of the Republic of Albania, or to a representative of any foreign legal entity, a foreign national or a person without nationality (Leonora: ky fragment fjalie duket shume bizarre; mund te jete ose a person without nationality, a stateless person, a person without Albanian citizenship; s’di a qendron koncepti i nje personi qe blen arme dhe s’ka shtetesi???? Mund te jete nje subjekt ekonomik qe eshte pa shtetesi dhe ketu ligji nuk shprehet qarte!)

b) sale or transfer of the right to conducting control over goods in the territory of the Republic of Albania, or outside of its territory, to a foreign legal entity or its representative, to a foreign national or a person without nationality, including its occurrence through different ways of communication, as well;

c) exposure, disclosure of technology to a foreign national or a person without nationality;

d) actual shipment of goods intended for further transfer or movement outside of the borders of the Republic of Albania.

3. “Embargo (full or partial)”: banning measures against or restrictions on export of goods to countries identified as such (cfare eshte kjo si te tille? E paqarte ne ligj) by the international organisations to which the Republic of Albania adheres, or in consequence of decisions made pursuant to certain national policies.

4. “Import”: purchase or other legal acquisition of goods by foreign businesses or other foreign entities, with their movement (entry) to the Republic of Albania being entailed or not, including purchases [of goods intended] for internal use by branches and representatives of institutions of the Albanian State, organisations, and [Albanian] diplomatic and consular representations abroad.

5. “Re-export”: sale of goods previously imported to the territory of the Republic of Albania, or transfer of these goods with other lawful ways, to foreign entities, with their movement outside of the territory of the Republic of Albania being entailed or not.

6. “Transit”: movement of goods from one foreign country to another via the customs-controlled territory of the Republic of Albania, being transported from one check-point to another or crossing the Albanian state border only once, except for cases where, in

the course of this legal movement across the territory of the Republic of Albania, ownership of or the right to using these goods is transferred from one person to another.

7. “Temporary exportation of goods”: movement of goods out of the customs-controlled territory of the Republic of Albania to a foreign country, to be later returned to the country of departure.

8. “Temporary importation of goods”: movements of goods from a foreign country to the Republic of Albania, to be later moved out of its territory.

9. “Goods and technologies”: goods and technologies intended for military purposes and dual use.

Goods and technologies, designed for military purposes, taken separately or associated with other goods, include:

a) products intended for military purposes, including armaments, ammunition, hardware (electronic parts) produced for specific purposes or military purposes, or specific parts for their production, as well as explosives, and special materials and equipment intended for the development, production and use of similar products;

b) services designed for military purposes, including services offered to legal or natural persons inside or outside of Albania, as well as brokering services in the area of design, production, construction, assembly, testing, repair, technical servicing, upgrading, modernisation, operation, management, demilitarisation, marketing, storage, exposure, identification, acquisition or operation of products or technologies for military use, and their giving to foreign legal entities or their representatives, or persons, for services relating to financing the above-mentioned activities;

c) technologies intended for military purposes, including specific information, in any form (except for information accessible to the public), which is necessary for the development, production or use of products designed for military purposes, and for the provision of services being military in nature. Such information may be in the form of technical data or technical assistance.

10. “Technical data”: projects, blueprints, sketches, plans, diagrams, models, formulas, specifications, software, handbooks and guidelines, printed in hard copy, or stored in a retrieval system, including the electronic one.

11. “Technical assistance”: the providing of instructions and counselling, and the taking of measures so as to ensure improvement in training, education, and working methods, and enhance experience further on.

12. “Basic technologies”: technologies determining the working principles and methods, and their constituent elements, without which military equipment may not be produced or used.

13. “Dual-use goods”: certain kinds of products, equipment, materials, software and technologies not specially designed for military purposes and for works and services related to them, which, besides being used for civil purposes, may be used for military or terrorist purposes, or in the design, production, and use of weapons intended for military purposes, weapons of mass destruction, the ways for their proliferation or the proliferation of explosive and nuclear equipment, including several types of nuclear materials, chemical, bacteriological and biological agents, and toxic mixture.

14. “End users”: local legal or natural persons, state structures in the Republic of Albania, the Armed Forces of the Republic of Albania, law enforcement entities, foreign

businesses and other entities, which are immediate consumers of goods imported to Albania, or exported from Albania.

15. “Military end-use”: use of any goods for designing, producing, assembling, testing, repairing, technical servicing, modifying, upgrading, employing, purchasing or using goods designed for military purposes, including:

- a) inclusion of such goods in the list of goods designed for military purposes;
- b) use of the process of production and testing of the technological equipment and their components;
- c) use of each one component of the above-mentioned goods and equipment, materials, software and technologies, or guaranteeing services in this function.

16. “Entities involved in international transfers of goods”: entities doing business in the Republic of Albania, duly registered by the State Export Control Authority, and their representatives, and legal or natural persons, who aim at conducting international transfers, including brokering services, as well.

17. “Licence”: the legal document, issued by the State Export Control Authority, whereby allowing an entity to carry out international transfers of goods, including the right to exporting or importing. The licence may be single-use, general or unlimited.

18. “Authorisation”: a legal document, issued by the State Export Control Authority, which recognises an entity licensed to carry out international transfer of goods to have the right to being involved in temporary importation and exportation of goods or their transit, conducting negotiations for signing economic agreements/contracts with foreign countries, carrying out international transfers of goods designed for military purposes, or being involved in exportation of dual-use goods and other goods destined to countries subject to partial embargo on such goods.

Authorisation may be single-use, general or unlimited.

19. “Single-use licence or authorisation”: licence or authorisation issued to an entity involved in international transfers of goods so as to conduct the necessary negotiations, or carry out a particular international transfer of goods to an identified end-user, specifying their description, quantity, value, and special terms of delivery, as well as the name of the foreign business or another entity, the country of destination or origin of goods and their end-user.

20. “General licence or authorisation”: licence or authorisation issued to an entity involved in international transfers of goods so as to conduct occasional negotiations, or carry out international transfer of goods to an identified en-user, specifying their description, and special terms of delivery, as well as the name of the foreign business or other entities, the country of destination or their end-user.

21. “Unlimited licence or authorisation”: licence or authorisation issued to an entity involved in international transfers of goods, so as to conduct occasional negotiations, or carry out transfer of goods, of which only note concerns description of goods, and their special terms of delivery, and the name of the country of destination or origin of goods.

22. “State export control”: the whole set of measures undertaken by the State Export Control Authority and the other state bodies in order to conduct state control over international transfers of goods, and their use by legal or natural persons with a view to [protecting] national security and ensuring fulfilment of international commitments made by the Republic of Albania.

23. “Inter-institutional export control system”: the whole set of organisational, legal, informational and other measures undertaken by state institutions with regard to an entity involved in international transfers of goods, so as to ensure its oversight aimed at guaranteeing whether the said activity complies with the legislation on export control.

24. “Brokering activity”: any one action carried out by a trade entity in the Republic of Albania, either a legal or natural person, facilitating (acting as an intermediary) conduct of international transfers of goods designed for military purposes, including actions relating to financing and transportation of shipments, irrespective of the origin of these goods, and the territory in which such activity will take place.

25. “Document of guarantee”: a written document containing written confirmation by the [Albanian] duly authorised state body or [the duly authorised body] of a foreign country concerning declaration of the purpose surrounding the use of items, which is issued in the form of an international import certificate, delivery certificate, or some other document containing such confirmation, or providing written commitment by end user, which is issued in the form of end-user certificate.

26. “International import certificate”: a document issued by the state export control authority of the importing country, confirming importer’s commitment to importing goods to his country, and following import, not to exporting, or not to dispatching them to another country, without permission by the above-mentioned body.

27. “Customs declaration”: a document issued by the state export control authority of the importing country, confirming that goods have entered that country.

28. “End-user certificate”: a document whereby end user specifies where goods will be installed (used) and the ultimate purpose of their use, and guarantees that goods will not be used [for any purpose] other than what is specified in the certificate, that they will not be transferred to some other entity in the territory of the country of destination, or will not be re-exported without permission by the relevant state bodies, and includes other guarantees regarding imported goods provided for in the terms of the economic agreement/contract with foreign countries, or in the requirements of the exporting country.

Article 3

Scope of Law

1. This Law regulates the legal relationships arising by virtue of the activities relating to international transfer of goods, including brokering services, production, science and technical cooperation, as well as their exhibiting at international exhibitions and fairs for the purpose of advertising, testing, marketing, and operations related to them, until their end use or until [they reach] end user, conducted in compliance with the procedures established with regard to entities involved in international transfers of goods.

2. This Law is not applicable to:

a) transfer of goods in connection with events held by the Armed Forces, or other state security structures of the Republic of Albania outside of its territory, or with events held by foreign military forces in the territory of the Republic of Albania, as part of international agreements laying down the mechanism of state control over the movement of these goods;

b) international transfers of anaesthetics (medical anaesthetic gases), sports and hunting arms, gas-containing vessels, and exportation and importation of individual armament of military servicemen, and state law enforcement and internal security bodies, which, under law, are entitled to carry arms;

c) state control procedures concerning international export transfers of goods, which aim at ensuring provision of military assistance in accordance with the terms contained in international agreements and treaties to which the Republic of Albania is a party, and the movement of goods outside of Albania with a view to offering emergency assistance to foreign countries, if this is established by law.

Article 4

Principles of State Export Control Policy

The state export control policy is built on the following principles:

1. Priority of national interest – political, economic and military, of which protection is necessary for guaranteeing national security.
2. Protection of political, economic and military interest of the country.
3. Obligation to observe the international commitments made by the Republic of Albania to non-proliferation of weapons of mass destruction, the ways for their proliferation, and to ensure state control over international transfer of goods designed for military purposes, and dual-use goods, as well as to prevent these goods from being used for terrorist acts and other illegal purposes.
4. Legality.
5. Conduct of export control to the extent required to achieve its purpose only.
6. Harmonisation of state export control procedures and regulations with international legal norms and practices.
7. Ensuring interaction with international organisations and foreign countries in the state export control area so as to reinforce international security and stability, including countervailing of weapons of mass destruction and the system for their proliferation.

Article 5

Methods of Applying State Export Control Policy

Methods of applying the state export control policy include the following:

1. Identifying goods, while drawing a comparison between actual goods and goods contained in the list subject to export control.
2. Granting licence or authorisation, allowing conduct of international transfers of goods, or negotiations for such transfers.
3. Enforcing procedures surrounding customs control over these transfers of goods in accordance with the customs law in force.
4. Enforcing sanctions against activities by foreign trade entities violating procedures governing international transfers of goods, established by this Law and other legislative acts on export control.

Article 6

Powers Surrounding Export Control

1. The Parliament lays down the legislative foundations to build the export control policy.
2. The Council of Ministers develops and implements the state export control policy.
3. State policy in this field is also applied by the State Export Control Authority, ministries and other state bodies enjoying the powers to conduct export control. The said bodies may engage other state bodies in implementing the measures undertaken in the process of export control, including diplomatic and consular representations of the Republic of Albania abroad, with the consent of the superior institution.
4. The State Export Control Authority, directly or jointly with other central executive bodies:
 - a) promotes activities relating to international transfers of goods, if they are in line with the national interest, while attaching priority to creating or retaining the existing jobs in the high-technology field;
 - b) restricts/bans these activities, if they are in conflict with the national interest, with the international commitments made by the Republic of Albania, and with its commitments to the fight against terrorism, if there is reason to assume that these goods fall under weapons of mass destruction, or are intended for building such weapons and the means for their delivery, or if the entity does not hold the guarantee of end user of goods.

Article 7

Sharing of Data in the Process of State Export Control

The State Export Control Authority enjoys the entitlement to obtaining from the other state bodies, and other entities involved in international transfers of goods, all the data required for the exercise of its functions concerning export control. It may employ and share these data with other international counterpart agencies, and international counterparts, for the sole purpose of conducting export control and protecting national interests.

Exchange of information about international transfers of goods shall not be countervailing to the Albanian legislation in force and the national interests.

Article 8

Confidentiality Surrounding Control

In its performance, the State Export Control Authority is duty bound to maintain confidentiality surrounding data about and secrets regarding trade entities, subject to control.

CHAPTER II

BASES FOR THE ORGANISATION AND ENFORCEMENT OF STATE EXPORT CONTROL

Article 9

Authority for Export-Import Control of Military Goods and Dual-use Goods and Technologies

The State Agency for Export-Import Control over Military Goods, and Dual-use Goods and Technologies (which, for the purpose of this Law, will be called the State Export Control Authority) is in place at the Ministry of Defence.

Trade activities with foreigners take place on the basis of licences and authorisations issued by this Authority, following the consulting of opinion of the institutions concerned.

With a decision, the Council of Ministers determines the organisation, composition, functioning and status of the State Export Control Authority, and the procedure governing receipt of approval by the institutions concerned.

Article 10

List of Goods Subject to State Export Control

Denominations and descriptions of goods subject to state export control are contained in the list of goods subject to control.

The list of goods is drawn up by the duly authorised state export control body, with contribution by the ministries and the other bodies concerned. This list shall fully comply with the EU dual-use list and the lists of the other international regimes on arms control.

On a yearly basis, the Council of Ministers adopts the list of goods subject to state export control.

Article 11

Application of Procedures for State Export Control over Prevention of Weapons of Mass Destruction Proliferation, the Ways for their Proliferation and Proliferation of Conventional Weapons

If a central state executive body receives information about the purpose or possibility of the use of some goods, which are not included in the list in the countries that are their end users, and about the design, production, assembly, testing, repair, technical servicing, modification, upgrading, operation, running, management, storage, exposure, identification, or weapons of mass destruction proliferation and the ways for their

proliferation, it is duty bound to report to the State Export Control Authority, which has the right to enforcing state export control procedures.

State export control is also conducted over export and temporary movement of goods not included in the control list in the event that:

1. Similar goods are imported to the territory of the Republic of Albania, accompanied by an international import certificate, issued by the authority of the exporting country, which requires such control.

2. Export or temporary movement of such goods outside of Albania is oriented towards countries subject to full or partial embargo, declared [as such] on the basis of resolutions by the United Nations Security Council, and the other international bodies, to which the Republic of Albania adheres, or on the basis of national legislation.

3. An entity involved in economic activity with foreign countries receives information from the State Export Control Authority about the possibility of goods, which are exported or temporarily moved to a country, being fully or partially used for design, production, assembly, testing, repair, technical servicing, modification, upgrading, operation, running, management, storage, exposure, identification, or for weapons of mass destruction proliferation, and the ways for their movement, or for military end-use in the countries under full or partial embargo, [as established] on the basis of resolutions by the United Nations Security Council the other international bodies, to which Albania adheres, or on the basis of the Albanian legislation, then the said entity is obliged to turn to the State Export Control Authority to receive authorisation for exercise of the right to exporting these goods, irrespective of whether they are included in the list or not.

Article 12

Expertise in the State Export Control Field

1. The State Export Control Authority conducts expertise in the state export control field in order to resolve issues concerning licences, authorisations, or international import certificates, the possibility of registering the entity involved in economic activities with foreign countries, or availability of possibility of exporting and importing goods designed for military purposes, even if they are considered to be state secret.

2. Persons developing an interest in the outcome of the expertise may not be appointed as experts.

3. Duration of an expertise shall not exceed 30 days from the day of obtaining all the necessary documents for the duly authorised state export control body, if there is no need for cooperation of efforts among the other institutions concerned.

Article 13

Goals in the Expert Control Field

a) Assessing status surrounding the protection of national security interests, adherence to international commitments made by the Republic of Albania concerning non-proliferation of weapons of mass destruction, the ways for their proliferation and restriction

on transfers of conventional weapons, as well as the undertaking of measures so as to avoid use of the above-mentioned goods for terrorist purposes and illegal activities.

b) Assessing export if, in end-user's country, there exists the possibility of developing weapons of mass destruction, the ways for their proliferation, conventional weapons, and military machinery, or purchasing any other goods that may be used for developing weapons of mass destruction, or the ways for their proliferation.

c) Drawing a comparison between the data contained in the labels on and descriptions of goods, subject to expertise, and denomination and description of goods included in the list of goods, subject to state export control.

d) Defining the origin of goods.

e) Validity of guarantee regarding delivery of goods to the stated end user, and their use for the stated purposes.

f) Stability of entities involved in international transfers of goods, under the Albanian legislation on export control, and availability of the organisation documents in the inter-institutional export control system in these entities.

g) Determining the possibility of guaranteeing licences to entities involved in international transfers of goods, allowing them to implement the right to importing-exporting, transshipment, or conducting negotiations followed by signing of economic agreements/contracts with foreign countries in order to carry out international transfers of goods, as well as of revoking these licences if these entities violate legislation in the state export control field.

h) Determining the possibility of guaranteeing issuance of international import certificates of goods to entities involved in international transfers of goods, as well as the right to revoking these certificates if legislation governing the export control field is violated by these entities.

i) Assessing terms for registration with the State Export Control Authority of entities established under Law no. 7632, dated 4 November 1992, "For provisions regulating Part One of the Trade Code," which are focussed on conducting international transfer of goods, including also trade entities aiming at carrying out brokering activities on behalf of international transfers of goods, designed for military purposes.

j) Assessing the possibility of putting forward submissions to the Council of Ministers, through the Minister of Defence, so as to guarantee the entities involved in international transfers of goods the rights to exporting and importing goods intended for military purposes and goods considered as state secret.

k) Identifying documentation accompanying goods, including information comprising state secret, and the level of the secret surrounding these goods.

l) Identifying other factors, which may allow the taking of critical decisions in the export control field.

Article 14

Registration of Entities Involved in International Transfer of Goods

Trade entities intending to carry out international transfers of goods, including those intending to be engaged in brokering activities on behalf of international transfers of goods

designed for military purposes, are preliminarily registered also with the State Export Control Authority as entities involved in this transfer, and shall provide it with the data and documents necessary to conduct the expertise of goods.

On the basis of the expertise outcomes, the State Export Control Authority identifies goods, determines the conditions for their international transfer to individual countries, and issues the registration certificate to these entities as entities involved in international transfer of goods, along with the relevant additional explanations of peculiarities of international transfer of goods.

Persons or bodies licensed to undertake preliminary commodity identification may assist a trade entity with the expertise of goods.

A trade entity bears responsibility for failure to undertake preliminary commodity identification, and the necessary actions to obtain licence for international transfer of goods, as well as for importing them in the absence of documents from the Republic of Albania.

Procedures for conducting expertise are regulated upon decision by the Council of Ministers.

Article 15

Authority for Undertaking International Transfer of Goods

Trade entities involved in economic activities with foreign countries for exportation and importation of military goods, described as state secret, are authorised by the Council of Ministers.

Upon decision, the Council of Ministers establishes the procedures for issuing or revoking licences for undertaking international transfers of goods prescribed by this Article.

Article 16

Organisation of Export Control System among Entities Involved in International Transfers of Goods

To ensure observation of legislation on export control at all the stages of transfer, entities involved in international transfers of goods may establish an inter-organisational export control system through support from the State Export Control Authority.

Establishment of the inter-organisational export control system is obligatory for trade entities involved in international transfers of goods, which, if they are keen to obtain a general or unlimited licence, shall first receive authorisation from the Council of Ministers for exportation and importation of goods designed for military purposes, and goods considered as state secret.

The State Export Control Authority certifies the inter-organisational export control system set up by entities involved in international transfer of goods, and provides them with the necessary certificate for the system.

Certification procedures are established by the Council of Ministers.

Article 17

Licences and Authorisations

The State Export Control Authority issues single-use, general or unlimited licences and authorisations.

1. Single-use licences and authorisations may be issued to trade entities involved in international transfers of goods so as to conduct negotiations for specific economic agreements/contracts with foreign countries, to carry out international transfers of goods, or particular transfers of goods, in conformity with the above-mentioned agreements, which are valid for a certain period of time, but no longer than one year. On the basis of the application deposited by an entity involved in the transfer of goods, the State Export Control Authority may extend this timescale, but not beyond the validity time-limit set forth in the economic agreement to which this license/authorisation refers.

2. General licences and authorisations may be issued to entities involved in international transfers of goods, so as to conduct occasional negotiations for signing economic agreements with foreign countries, or multiple transfers to specific end users, provided for in the economic agreement /contract with foreign countries concluded while this licence/authorisation was valid, and is valid for the said period, but for no longer than three years.

3. Unlimited licences and authorisations may be issued to entities involved in international transfers of goods, if they are occasionally engaged in negotiations scheduled for signing an economic agreement /contract with foreign countries, or in cases of multiple transfers of goods to different end users in a specific country, as provided for in the economic agreement/contract with foreign countries designed to be concluded with individual importers during the term of validity of the licence/authorisation, as part of the relevant international treaties, or transfers involving countries, which are parties to the international export control regimes, or the relevant object of state policy, and are effective for a definite period of time, but for no longer than three years.

The binding terms for issuing special, general and unlimited licences and authorisations to entities involved in international transfers of goods, provide for preservation of the inter-organisational export control system in these entities, ensuring of observation of export control requirements in the process of international transfers of specific goods, keeping of documentation relating to these transfers, and submission of the relevant reports to the State Export Control Authority.

Article 18

Time-limit for Considering an Application for Licence/Authorisation

If issuance of licences and authorisations does not call for coordination of work among the other institutions concerned, the time-limit for considering an application shall be determined in accordance with the categories of goods, but shall not exceed the following timescale as of the day of application:

1. 45 days for exportation (re-exportation) of military goods.
2. 30 days for exportation (re-exportation) of dual-use goods and temporary exportation (temporary importation) of any goods.
3. 15 days for importation or transshipment of goods, and temporary importation/exportation of goods for exhibitions, fairs, advertising, testing, and other similar purposes, if this does not call for transfer of ownership.

This time-limit does not include the time required for obtaining additional information from entities involved in international transfers of goods.

The application for licence or authorisation is considered rejected and is not subject to consideration, if the additional information is not received within two months as of the moment of the filing of the application.

The Council of Ministers determines the procedures concerning extension of time-limit for considering applications, and the approach to further proceeding.

Article 19

Obtaining Licenses, Authorisations and State Guarantee

Drawing on export control expertise outcomes, the State Export Control Authority takes decisions about issuing licences and authorisations or international import certificates.

To obtain a decision about issuing licences and authorisations or international import certificates, an entity involved in international transfers of goods, or a foreign business, or another entity, files a written application with the State Export Control Authority, submitting the documents required for the conduct of expertise. These documents, which are attached to the application, shall contain accurate data about the goods and their international transfer procedures, and the original guarantee for these transfers.

Reviewing of applications for the purpose of issuing licences, authorisations and international import certificates is carried out by the State Export Control Authority with other state bodies, entities, institutions and other structures joining in, if necessary, provided that the questions under examination fall within their powers.

Article 20

Refraining from Considering an Application and Its Rejection

The application for obtaining licences, authorisations or international import certificates will not be taken into consideration if:

- a) It is deposited by a person who does not have the judicial capacity;
- b) Documents are missing, or they are formulated contrary to the requirements prescribed by Article 19 of this Law;
- c) There are other reasons running counter to Albanian legislation in force, or the ratified international agreements.

In the event that the application for obtaining licence, authorisation and international import certificate is not taken into account or rejected, the State Export Control Authority

gives notice to the applicant and the state body responsible within three days from the taking of the relevant decision, laying down the explanations of and reasons behind failure to consider it or its rejection.

Article 21

Revoking and Holding Applications in Abeyance

The State Export Control Authority may revoke or hold licences, authorisations and international import certificates in abeyance:

1. In the event of an emergency involving national security needs and interest, or in order to ensure fulfilment of the international obligations of the Republic of Albania.
2. If an entity goes into liquidation, in line with the relevant legal procedures.
3. If the entity involved in international transfers of goods goes bankrupt, and the relevant bankruptcy legal procedures are started against it.
4. If there is need for the State Export Control Authority to conduct additional expertise of the documents submitted by the entity involved in international transfers of goods, which is applying for licence, authorisation, or international import certificate.
5. If notice is taken that the entity involved in international transfers of goods has violated the legislation, including legislation on export control, provided for in Article 30 of this Law.

Article 22

Timescale for Keeping Documentation

The State Export Control Authority keeps [documentation] up to 10 years following issuing of licence, special license, international import certificate, or refusal of application, as well as other applications and documentation submitted by the relevant entities.

Article 23

Agreements or Contracts with Foreign Countries for International Transfers of Goods

1. Economic agreements or contracts with foreign countries for international transfers of military goods and dual-use goods are signed with entities involved in economic activities with foreign countries, in accordance with the legislation of the Republic of Albania and state policies the Council of Ministers has established in this area.
2. In the course of the process of the drafting of these agreements or contracts, as well as other ways for international transfers of goods, provided for in this Law, local trade entities involved in economic activities with foreign countries are presumed to be aware that goods and items, the object of these transfers (agreements and contracts), may be used by other countries, or by foreign economic entities, for developing weapons of mass destruction, and the ways for their proliferation.

3. An entity involved in economic activities with foreign countries is obliged to refuse to enforce an economic agreement/contract with foreign countries for international transfers of goods, if it receives notification that the goods will be used for purposes other than those stated in the agreement/contract, or in other documents relating to this transfer, or will be used by another end user, different from the one for whom the license/authorisation is issued.

CHAPTER III

STATE CONTROL OVER ACTIVITIES RELATED TO INTERNATIONAL TRANSFERS OF GOODS

Article 24

State Control over Conduct of Negotiations for Signing an Economic Agreement or Contract with Foreign Countries

An entity involved in economic activities with foreign countries conducts negotiations with a foreign economic entity for signing an economic agreement/contract for exportation of goods designed for military purposes and dual use to a foreign country under partial embargo, provided that it receives authorisation from the State Export Control Authority.

The state control procedures with regard to these negotiations are established upon decision by the Council of Ministers.

Article 25

State Control over End Use of Goods

1. An entity involved in international transfers of goods provides the State Export Control Authority with comprehensive and accurate information about end use of goods, the objects of international transfer, as well as copies of the original guarantee for use of goods solely in keeping with the purpose of use stated by end user.

2. Entities involved in international transfers of goods undertake measures for checking on arrival of goods at destination and for end use, and, following this verification, provide the State Export Control Authority with the information required for carrying out the necessary verification.

3. In conformity with the procedures provided for in points 4, 5, 6 and 7 of this Article, the State Export Control Authority and the other authorised state bodies have the right to checking on arrival [of goods] at destination and use of goods at every stage of international transfer, even following arrival at end user.

4. State control over local end users concerning adherence to pledges surrounding use of imported goods in line with the stated purpose, is conducted on the basis of analysis of reports submitted by the entity, being the end user, on actual use of goods, as well as on the basis of controls over goods conducted selectively by end user.

5. Such controls are conducted by officials authorised by the State Export Control Authority.

6. Representatives of foreign exporters or state bodies of the exporting country may also participate in checking on Albanian end user' actual use of goods previously imported under state guarantee for their use, in compliance with the stated purposes, only if it is prescribed by economic agreements or contracts, or if this right derives from obligations

contained in international agreements, to which the exporting country and the Republic of Albania are parties.

7. The State Export Control Authority may check on foreign end user's use of goods imported by entities involved in economic activities with foreign countries, and by foreign entities or other entities from Albania to the territory of the countries of these users, under state guarantee of their use in line with the stated purposes, only if it is provided for in economic agreements or contracts, or if this right derives from obligations contained in international agreements, to which the Republic of Albania and the exporting country are parties.

8. Procedures concerning issuing of guarantees and conduct of state control, in accordance with obligations surrounding use of goods, the object of state export control, including issuance of international import certificates and customs declaration of arrival [of goods] at destination, are established upon decision by the Council of Ministers.

Article 26

State Export Control Procedures concerning International Transfers of Goods, as Part of International Agreements

The State Export Control Authority employs facilitating procedures so as to consider and make sure whether licences and authorisations for international transfers of goods (including services for technological developments) are issued in the framework of international or inter-governmental agreements.

Enforcement of facilitating procedures for exporters and end users occurs on the basis of the list of goods contained in international or inter-governmental agreements.

The State Export Control Authority makes a decision about issuing a licence or authorisation for an international transfer of goods within a matter of 15 days from receipt of all the necessary documents submitted by the entity involved in this transfer.

Article 27

Customs Control

Customs control over goods and the other customs procedures are conducted on the basis of the Customs Code of the Republic of Albania and the legislation in force on weapons and other dual-use goods.

Customs control over goods, the object of this Law, takes place at particular customs points.

Upon request by importer of goods, local customs authorities issue the customs declaration confirming the fact surrounding arrival of the cleared goods.

Article 28

State Control over Use of Licences, Authorisations and International Import Certificates

Entities involved in international transfers of goods, which have obtained a licence, authorisation and international import certificate, submit to the State Export Control Authority a written report on the actual conduct of transfers of goods mentioned in these documents, and on use of these goods according to the stated purpose.

The format and timescale of and timing for submission report are established by the State Export Control Authority.

Upon request by the State Export Control Authority, an entity involved in international transfers of goods hands in the documents and required information on its performance in the export control field, including documents of guarantee, technical certificates and other documents, on the signing and implementation of an economic agreement/contract with foreign countries in international transfers of goods. This entity is obliged to keep these documents for a period of 10 years.

CHAPTER IV

PREVENTION OF VIOLATIONS, AND RESPONSIBILITIES SURROUNDING EXPORT CONTROL

Article 29

Prevention of Violations of Legislation and Responsibility surrounding State Export Control

In order to prevent violations of legislation in the state export control field, the State Export Control Authority and the other state bodies, within their powers recognised by law, have the right to checking on violations of legislation in the state export control area, including also control over arrival of goods at destination, correspondence, documents concerning the stated objectives, and other documents on which international transfers of goods is built.

If it finds violations prescribed in Article 30 of this Law, the state body gives immediate notice to the State Export Control Authority.

In the event that there are sufficient data indicating that efforts to commit a criminal offence are under way, or if it has actually been committed by some entity, and if goods subject to state export control are also involved, the State Export Control Authority notifies the criminal authorities.

Article 30

Violations of Legislation in the State Export Control Field

In the event that they do not fit into criminal offences under the Criminal Code, the following violations constitute administrative contraventions:

1. Conduct of international transfers of goods in the absence of a licence, authorisation and state guarantee, as legal procedures provide for.

2. Conduct of international transfers of goods on the basis of licences, authorisations and state guarantees issued on the basis of false documents, or documents containing false information.

3. Signing of economic agreements/contracts for international transfer of all kinds of goods, or participation in their implementation, in a manner not defined by this Law, if the entity involved in this transfer has received information that goods will be used by the country, or foreign entity, for developing weapons of mass construction, and the ways for their proliferation.

4. Change in the destination of goods in the course of international transfer of goods, and use for different purposes, or by other end users, different from what is stated in the economic agreement/contract with foreign countries, and in other documents relating to it, on the basis of which the licence, authorisation and international import certificate is issued.

5. Intentional withdrawal of information that may impact on the taking of decisions about the issuance of licence, authorisation and international import certificate.

6. Conduct of international transfers of goods in contradiction with the conditions provided for in the licence, authorisation or international import certificate, including intervention and undertaking of changes in the economic agreement/contract with foreign countries without the knowledge of the State Export Control Authority, as well as with the names of and conditions set by exporter, importer, broker, and end user, and with the description of goods, pledges for end use and the giving of guarantees.

7. Conduct of negotiations without the authorisation of the State Export Control Authority for the signing of economic agreements/contracts for export of military goods and dual-use goods to a country under partial embargo.

8. Failure to submit, or delayed submission of, the reports and relevant documents to the State Export Control Authority on the negotiations mentioned in Point 7 of this Article, on conduct of international transfer of military goods and dual-use goods, on the basis of the licence obtained or the special authorisation, and on the way of use of these goods, in keeping with the stated purpose.

9. Raising hurdles for the State Export Control Authority and the other state bodies involved in conduct of state export control, in line with the legal powers sanctioned by this Law, to perform their official duty.

10. Ungrounded refusal to submit the information and documents required by the State Export Control Authority, or by some other body, conducting state export control within its legal powers, and their intentional distortion, or withdrawal.

11. Intentional destruction of documents relating to the signing and implementation of economic agreements/contracts with foreign countries for international transfers of goods, on the basis of which licences, authorisations or international import certificates are issued before the time-limit set forth in Article 26 of this Law.

Article 31

Legal Entities' Responsibility for Violations of Legislation in Export Control Field

The State Export Control Authority imposes the following fines to trade entities involved in international transfers of goods:

1. For violations prescribed by Article 30, points 1, 2 and 3, of this Law, [they are fined] up to 150 per cent of the price of goods, the object of international transfer.

2. For violations prescribed by Article 30, points 4, 5 and 6, of this Law, [they are fined] up to 100 per cent of the price of goods, the object of international transfer.

3. For violations prescribed by Article 30, points 7 and 11, of this Law, [they are fined] up to 1 000 per cent of the nationals' minimum tax-free annual income.

4. For violations prescribed by Article 30, point 8, of this Law, [they are fined] up to 500 per cent of the nationals' minimum tax-free annual income.

5. For violations prescribed by Article 30, points 9 and 10, of this Law, [they are fined] up to 100 per cent of the nationals' minimum tax-free annual income.

Article 32

Nullification and Revocation of Licence/Authorisation

Apart from imposing the fines provided for in Article 31 of this Law, the State Export Control Authority may revoke licence, authorisation and international import certificate issued to these entities, or remove these entities from the rolls.

In the event that a legal entity involved in international transfers of goods, which has ownership of import, export of military goods and dual-use goods, comprising state secret, commits the violations provided for in Article 30, Points 1-6, of this Law, or in the event that, in consequence of this violation, the political and economic state interests have been damaged significantly, upon proposal by the State Export Control Authority, through the Minister of Defence, the Council of Ministers revokes the guarantee issued to this entity. This act may not be appealed against to the court.

Article 33

Appeal against Decisions by the State Export Control Authority

The decision made by the State Export Control Authority to revoke licence, authorisation and international import certificate, or to remove from the rolls the name of an entity involved in economic activities with foreign countries for international transfers of goods, except for the cases prescribed by Article 32, second paragraph, of this Law, may be appealed against to the court of appeal, in accordance with the general rules of appeal. Appeal against decision does suspend its execution.

The Albanian State bears no responsibility to an entity for the losses incurred because of the nullification or revocation of licence, authorisation, international import certificate and state guarantee, or if these actions are undertaken with a view to protecting the national interests and ensuring fulfilment of the international obligations of the State.

Article 34

Authority for Imposing Fines for Violations of Legislation in the State Export Control Field

On behalf of the State Export Control Authority, fines provided for in Article 30 of this Law are determined by its manager.

When the person authorised by the State Export Control Authority identifies one of the violations prescribed by Article 30 of this Law, he writes a report attaching to it explanations given by the manager of the entity committing the violation and by other officials responsible, as well as other necessary documents confirming commission of violation, which he submits to the authority mentioned in the first paragraph of this Article.

Within 10 days following receipt of the documents mentioned in the second paragraph of this Article, the head of the State Export Control Authority, or his deputy, takes decision to impose a fine, in compliance with this Law.

The decision for imposing the fine is drawn up in three copies. One copy is delivered within 3 days, as against signature, to the head of or the person authorised by the entity involved in international transfers of goods, transshipment or brokerage, in conformity with legal acts and subordinate laws in force, with the body imposing the fine keeping the other two copies.

The report and decision are approved by the State Export Control Authority.

Fines are paid by the entity within 15 days from the day when it was imposed.

An appeal may be lodged against the decision to the court within 15 days from the day when it was taken.

The fine comprises an executive title, which is executed by the bailiff's office in the event that its payment is not made on a voluntary basis within the time-limit, or no appeal against it is lodged to the court.

Article 35

Responsibility of Persons Involved in International Transfers of Goods for Violations of Legislation in the State Export Control Area

Entities involved in economic activities with foreign countries, natural persons, which violate legislation in the state export control field, according to the violation committed are liable to administrative and civil responsibility, as defined by this Law.

Article 36

Staff's Responsibility for Violations of Legislation in the State Export Control Field

The staff of the State Export Control Authority and other state bodies, involved in decision-making in this area, is liable to administrative and civil responsibility for violations of the legislation in force, as defined by this Law.

CHAPTER V

FINANCIAL SUPPORT FOR STATE EXPORT CONTROL

Article 37

Financing the State Export Control Activity

Expenses for the state export control activities are covered by the state budget.

Article 38

Collecting Tariffs for the Registration and Issuance of Documents

A tariff is payable to the state budget for issuance of documents for the registration of entities involved in international transfers of goods, the licence, authorisation and international import certificate, or the customs declaration, which confirms arrival of goods in the territory of the Republic of Albania.

The value of tariffs referred to in the first paragraph of this Article is determined upon decision by the Council of Ministers.

CHAPTER VI

FINAL PROVISIONS

Article 39

Enactment of Subordinate Laws

The Council of Ministers is assigned to enact the subordinate law for the establishment of the State Export Control Authority within six months following entry of this Law into force, and prepare and adopt the other subordinate laws pursuant to Articles 6, 9, 10, 13, 14, 15, 16, 24, 25 and 38 of this Law.

Article 40

Nullification

All the legal acts and subordinate laws that are in conflict with this Law, are null and void.

Article 41

Entry into force

This law enters into force on 1 June 2007.

S P E A K E R
Jozefina Topalli (Çoba)