

O. STRATEGIC GOODS

O1 The Strategic Goods Import, Export and Transit Act

Passed on 16 June 1999
(RT I 1999, 57, 597),
entered into force 17 July 1999.

§ 1. Scope of application

(1) This Act regulates the import of strategic goods into and the export of strategic goods from the customs territory of Estonia and the transit of strategic goods through the customs territory of Estonia.

(2) This Act regulates the import of weapons and ammunition into the customs territory of Estonia, the export of single weapons from Estonia and the transit of single weapons through the customs territory of Estonia, in so far as such import, export or transit is not regulated by other Acts. The export of weapons and ammunition from Estonia and the transit of weapons and ammunition through the customs territory of Estonia is regulated by this Act or international agreements.

§ 2. Strategic goods

(1) For the purposes of this Act, strategic goods are the following goods which may endanger national or international security:

1) goods used for military purposes, which means corresponding substances, materials, devices, equipment, systems and components thereof, know-how and technology;

2) goods used for both civil and military purposes (hereinafter dual-use goods).

(2) Services which are connected with the development, production, use or maintenance of goods used for military purposes or dual-use goods or with military planning are also deemed to be strategic goods if they are supplied:

1) from the territory of Estonia into the territory of a foreign state or from the territory of a foreign state into the territory of Estonia;

2) in the territory of Estonia to a foreign service consumer or in the territory of a foreign state to an Estonian service consumer;

3) by an Estonian service supplier who is a legal person, through the economic activities of the Estonian service supplier in the territory of a foreign state, or by a foreign service supplier who is a legal person, through the economic activities of the foreign service supplier in the territory of Estonia;

4) by an Estonian service supplier who is a natural person, while the Estonian service supplier is in the territory of a foreign state, or by a foreign service supplier who is a natural person, while the foreign service supplier is in the territory of Estonia.

(3) The list of strategic goods shall be established by a regulation of the Government of the Republic.

§ 3. Strategic Goods Import, Export and Transit Control Commission

(1) The Strategic Goods Import, Export and Transit Control Commission (hereinafter commission) shall issue, extend and revoke the documents specified in subsections 4 (1) and (3) of this Act which are related to the import of strategic goods into and export thereof from the customs territory of Estonia and the transit of strategic goods through the customs territory of Estonia, monitor the use of such documents through agencies which participate in the activities of the commission and, if the documents specified in subsection 4 (3) of this Act are issued, monitor the use of strategic goods for their intended purpose.

(2) If goods are not strategic goods or if an exception has been established concerning the goods pursuant to subsection 4 (2) of this Act, the commission shall issue a corresponding certificate to the applicant.

(3) The commission has the right to receive information necessary for performing its functions from administrative agencies and all natural and legal persons who apply for documents specified in subsection 4 (1) or (3).

(4) The commission shall be formed and its statutes approved by a regulation of the Government of the Republic. The commission shall include representatives of the Ministry of Defence, the Ministry of Economic Affairs, the Ministry of Foreign Affairs, the Security Police Board, the Police Board and the

Customs Board. The Minister of Foreign Affairs or a representative appointed by him or her shall chair the commission.

§ 4. Documents related to import, export and transit of strategic goods

(1) Goods included in the list of strategic goods may be imported into or exported from the customs territory of Estonia, in transit through the customs territory of Estonia, and carried into or out of a free zone solely on the basis of a single special permission - an import, export or transit licence - and under the conditions prescribed therein.

(2) The Government of the Republic may, by a regulation, prescribe exceptions for which licences specified in subsection (1) of this section are not necessary if the exceptions pertain to:

1) the temporary import, export or transit of dual-use goods, if there is no change in the ownership of the goods, or

2) the temporary import or export or permanent import of combat weapons, essential parts thereof, ammunition and munitions which are under the authority of the Ministry of Defence.

(3) In order to import goods which, in the Republic of Estonia or a foreign state, are deemed to be strategic goods into the customs territory of Estonia or in order to confirm the receipt of imported goods, the following documents shall be issued for submission to the appropriate agency in the country of consignment of the goods at the request of such agency:

1) International Import Certificate - a document which contains confirmation from the importer, who is an Estonian natural or legal person, that the importer has undertaken to import the goods with the value and in the amount indicated into Estonia and not to divert the goods from their intended destination or to re-export the goods without a corresponding licence or written permission, and confirmation from the commission that supervision of the use of the relevant goods is ensured in Estonia;

2) End-Use Certificate - a document which contains confirmation from the importer, who is an Estonian natural or legal person, that the importer has undertaken to import the goods with the value and in the amount indicated into Estonia, to use the goods only for the purpose indicated and not to divert the goods from their intended destination or to re-export the goods without a corresponding licence or written permission, and confirmation from the commission that supervision of the use of the relevant goods is ensured in Estonia;

3) Delivery Verification Certificate - a document which contains confirmation from the importer, who is an Estonian natural or legal person, that the importer has received the goods, with the value and in the amount indicated, dispatched by an exporter from the country of consignment of the goods in Estonia and has undertaken not to divert the goods from their intended destination or to re-export goods without a corresponding licence or written permission, and confirmation from the commission that supervision of the use of the relevant goods is ensured in Estonia.

(4) The issue of the documents specified in subsections (1) and (3) of this section shall be refused if:

1) the carriage of goods to the country concerned or to the end-user is in conflict with the international obligations of the Republic of Estonia;

2) there is a risk that the goods may be used in their country of destination to violate human rights or increase national or international instability or that the goods may be diverted from their intended destination or re-exported under undesirable conditions;

3) the import, export or transit of the goods endangers the interests or security of the Republic of Estonia;

4) the import, export or transit of the goods may endanger the environment or human health;

5) the goods are subject to restrictions specified in § 6 of this Act.

(5) Documents specified in subsections (1) and (3) of this section shall be revoked:

1) upon the loss of the documents;

2) if new facts become evident, knowledge of which at the time of review of the applications for the documents would have caused refusal to issue the documents, if the documents issued have not yet been used for the purpose of import, export or transit of goods.

(6) The procedure for the application for and issue, extension and revocation of the documents specified in subsections (1) and (3) of this section, the terms for the processing of applications and the procedure and terms for the carriage of strategic goods across the customs frontier shall be established by a regulation of the Government of the Republic.

(7) The standard formats of the documents specified in subsections (1) and (3) of this section shall be established by a regulation of the Minister of Foreign Affairs.

§ 5. Terms of validity of documents related to import, export and transit of strategic goods

(1) The term of validity of an import or export licence shall be up to one year and the term of validity of a transit licence shall be up to one month; the term of validity may be extended once for a period of the same length upon a reasoned request by the recipient of the document.

(2) The term of validity of an International Import Certificate, End-Use Certificate or Delivery Verification Certificate shall be up to six months.

§ 6. Restrictions on import, export and transit

(1) The following are prohibited:

1) export of strategic goods from the customs territory of Estonia and transit thereof through the customs territory of Estonia to states which are subject to sanctions imposed by the United Nations Security Council;

2) export of strategic goods from the customs territory of Estonia and transit thereof through the customs territory of Estonia to crisis areas. A crisis area is defined in this Act as a region in which there is war or a threat of war, or civil war or armed conflict;

3) diversion of goods from their intended destination, or re-export of goods, without corresponding written permission, if the goods are imported into Estonia on the basis of an International Import Certificate, a Delivery Verification Certificate or an End-Use Certificate and regardless of whether the goods are strategic goods;

4) export or transit through the customs territory of Estonia of antipersonnel landmines, nuclear, bacteriological (biological) or chemical weapons and materials, hardware, software and technology used for the manufacture thereof, and provision of services related to the manufacture of such articles, regardless of the country of destination.

(2) Clauses (1) 2) and 3) of this section do not apply to foreign states with which Estonia has entered into a corresponding international agreement.

§ 7. Use of information

(1) If a possessor of goods or a principal has any information which gives reason to believe that the goods imported into Estonia, exported from Estonia or in transit are intended for use in the development or production of weapons of mass destruction or conventional weapons, the possessor or principal is required to inform the commission thereof, regardless of whether the goods are included in the list of strategic goods.

(2) Information related to the import, export and transit of strategic goods and concerning the possessor of the goods may be disclosed only in the cases prescribed in this Act.

(3) The restriction provided for in subsection (2) of this section shall not prevent:

1) the use of information or the exchange thereof between the government agencies specified in subsection 3 (4) of this Act in order to monitor the import, export and transit of strategic goods;

2) the use of information in pre-trial proceedings or court proceedings or to enforce and comply with a court judgment;

3) the forwarding of information to international organisations or to agencies which exercise supervision over the performance of international agreements, if Estonia has assumed an obligation to report to such agencies or organisations on the import, export and transit of strategic goods.

§ 8. Supervision

Supervision over the import, export and transit of strategic goods shall be exercised in accordance with the Customs Act (RT I 1998, 3, 54; 36/37, 552; 51, 756; 1999, 10, 156), taking into account the specific provisions arising from this Act.

§ 9. Return of documents related to import, export and transit of strategic goods

An exporter or importer of goods or a principal shall return an unused import, export or transit licence, International Import Certificate, Delivery Verification Certificate or End-Use Certificate to the commission together with a written explanation of why the licence or certificate was not used.

§ 10. Liability

(1) An exporter or importer of goods or a principal shall be responsible for the import, export or transit of strategic goods pursuant to the procedure established by this Act and other legislation and in accordance with the documents which are specified in subsection 4 (1) or (3) of this Act and which are issued to the exporter or importer of the goods or the principal.

(2) Upon a violation of this Act or legislation adopted on the basis thereof, administrative liability pursuant to § 69 of the Customs Act applies in the absence of elements of a criminal offence.

§ 11. Amendments to Criminal Code

Section 187 1 of the Criminal Code (RT 1992, 20, 288; RT I 1999, 38, 485) is amended and worded as follows:

**“§ 1871 . Submission of false information or concealment of information concerning strategic goods
Submission of false information or concealment of information upon application for an export, import or transit licence, International Import Certificate, End-Use Certificate or Delivery Verification Certificate shall be punished by a fine or by imprisonment for up to two years. ”**

§ 12. Amendments to Weapons Act

Section 46 of the Weapons Act (RT I 1995, 62, 1056; 1997, 93, 1564) is amended as follows:

1) subsection (1) is amended and worded as follows:

“(1) The import, export and transit of weapons and ammunition shall be effected pursuant to the procedure provided for in this Act, the Customs Act (RT I 1998, 3, 54; 36/37, 552; 51, 756; 1999, 10, 156) and the Strategic Goods Import, Export and Transit Act and legislation issued on the basis thereof. ”;

2) subsection (4) is amended and worded as follows:

“(4) The export and transit of service and civilian weapons or essential parts or ammunition thereof shall be effected on the basis of the Strategic Goods Import, Export and Transit Act or an international agreement. ”

§ 13. Repeal of Strategic Goods Export and Transit Act

The Strategic Goods Export and Transit Act (RT I 1994, 30, 466) is repealed.