



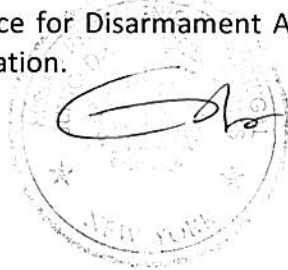
*Permanent Mission of Portugal
to the United Nations*

ONU/2013/203

The Permanent Mission of Portugal to the United Nations presents its compliments to the Office for Disarmament Affairs of the United Nation and in reference to its note verbale ODA/61-2013/NLDU, has the honour to forward herewith Portugal's views on the "National legislation on transfer of arms, military equipment and dual use goods and technology", as requested by the Secretary General of the United Nations. An electronic version has been submitted to fuchs@un.org.

Furthermore the Permanent Mission of Portugal would like to alert for the fact that the Government of Portugal submitted last year, via electronic mail and note verbale ONU/2012/141 of 19 July 2012, its views on the "National legislation on transfer of arms, military equipment and dual use goods and technology", whose content is not reflected on the Annex -13/321 - list of States who have submitted the requested information.

The Permanent Mission of Portugal to the United Nations avails itself of this opportunity to renew to the Office for Disarmament Affairs of the United Nations the assurances of its highest consideration.



New York, 4 December 2013

UNGA Resolution 66/41, on National legislation, regulations and procedures on the transfer of arms, military equipment and dual-use goods and technology

Amended version of 2012 submission

A. Procedures regarding export, transfer, transshipment and brokering control of Military goods

1. Law 37/2011, dated June 21, regulates the transfer and circulation of defense related products, covering the licensing and control of exports (includes re-exports), imports (of some specific military products), transit and transshipment as well as end user controls.

2. To apply for a transfer, transit, or transshipment license of military goods, an application must be submitted to the Ministry of National Defence (MoD), which is the licensing authority for military goods. The application must contain: an International Import Certificate (issued by the importing country) and an End User Certificate with a non-re export clause.

Transfers are subject to a risk assessment conducted by the Ministry of Foreign Affairs, which issues a binding opinion. The binding opinion of the MFA is based on national foreign policy requisites and the eight criteria of the EU Council Common Position 2008/944, dated 8 December, which include:

1. Respect for the international obligations and commitments of Member States, in particular the sanctions adopted by the UN Security Council or the European Union, agreements on non-proliferation and other subjects, as well as other international obligations.
2. Respect for human rights in the country of final destination as well as respect by that country of international humanitarian law.
3. Internal situation in the country of final destination, as a function of the existence of tensions or armed conflicts.
4. Preservation of regional peace, security and stability.
5. National security of the Member States and of territories whose external relations are the responsibility of a Member State, as well as that of friendly and allied countries.
6. Behaviour of the buyer country with regard to the international community, as regards in particular its attitude to terrorism, the nature of its alliances and respect for international law.
7. Existence of a risk that the military technology or equipment will be diverted within the buyer country or re-exported under undesirable conditions.
8. Compatibility of the exports of the military technology or equipment with the technical and economic capacity of the recipient country, taking into account the desirability that states should meet their legitimate security and defense needs with the least diversion of human and economic resources for armaments.

3. In addition, Law 49/2009, dated August 5, which stipulates the conditions of access to activities of trade and Industry of military goods and technologies, as well as their practice, with a particular emphasis on brokering, also applies.

4. The list of military items to which the control foreseen in Law 37/2011 applies is the EU Common Military List, as adopted by national legislation. The EU Common Military List is adapted from the trigger lists of the Wassenaar Arrangement.

5. In the event of breach of the legal procedure sanctions apply according to the above mentioned law.

B. Procedures regarding exports of Self-defense, sport and hunting arms

1. Law 5/2006, dated February 23, as amended by laws 59/2007, dated September 4, law 17/2009, dated May 6, law 26/2010, dated August 30, law 12/2011, dated April 27, and law 50/2013, dated July 24, applies Self-defense, sport and hunting arms, including its transfer, and export, as well as production, assembly, repair, import, storing, circulation, trade, acquisition, cession, possession, declaration, keeping, safety, use and bear of arms, their components and ammunitions.

2. Transfers of self-defense, sport and hunting arms are, according to amended Law 5/2006, subject to a licence procedure. The licencing authority is the National Police (Policía de Segurança Pública, PSP). A risk assessment based on the eight criteria of the EU Council Common Position 2008/944, dated 8 December, is conducted by the Ministry of Foreign Affairs, which issues a binding opinion on the (non) advisability of the transfer.

3 Furthermore, The national Police carry out inspections to determine whether the goods intended to be imported, transferred or exported comply with legislation. The national Police is also responsible for checking the above-mentioned goods in transit in the International areas of ports and airports, having the prerogative to open cartons or containers.

Police inspections are made in co-operation with the MoD, whenever they involve dual-use arms, ammunition or accessories that fall within the following categories: equipments, military means and war material or classified as such by the MoD; automatic firearms; chemical, biological and radioactive weapons or weapons that may cause a nuclear explosion; ammunition with piercing, explosive, incendiary, tracing or disintegrating bullet; silencers; class B short, repetition or semiautomatic firearms; long semiautomatic repetition single or double-barreled firearms, in which one of the barrels is striated; long semiautomatic or repetition smooth-bore barreled (measuring less than 60 cm) firearms; long semiautomatic smooth-bore barreled (measuring more than 60 cm) firearms, If these joint inspections conclude that arms, ammunition and accessories qualify as military weaponry, the procedure to grant permit to import, export, transfer, transit or transshipment is closed, the weapons are returned to the origin and the international notification procedure falls into the jurisdiction of the MoD.

C. Procedures regarding export to dual-use items and technologies

The EU Council Regulation (CE) n° 428/2009, dated May 5, setting up a Community regime for the control of exports, transfers, brokering and transit of dual-use items is applicable in Portugal.

In the event of breach of the previously referred Council Regulation, the Tax Violations Regime (Law 15/2011, dated June 5) is applicable.

Controls apply to items listed in export control regimes, such as the Missile Technology Control Regime (MTCR), the Wassenaar Arrangement, the Australia Group (AG), and the Nuclear Suppliers Group (NSG).

D. The Arms Trade Treaty (ATT)

Portugal actively participated in the negotiation of the Arms Trade treaty, which Portugal signed on the 3rd of June 2013. The ratification process is currently ongoing.