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Communication of 29 April 2003 received from the Ministry of Foreign Affairs of the Republic of Lithuania concerning nuclear export policies and practices

- The Secretariat of the International Atomic Energy Agency has received a Note Verbale of 29 April 2003 from the Ministry of Foreign Affairs of the Republic of Lithuania providing information on the nuclear export policies and practices of the Government of the Republic of Lithuania..
- In light of the request expressed in the Note Verbale, the text of the Note Verbale is attached hereto.



LIETUVOS RESPUBLIKOS
UŽSIENIO REIKALŲ MINISTERIJA

208/2003

The Ministry of Foreign Affairs of the Republic of Lithuania presents its compliments to the Director General of the International Atomic Energy Agency and has the honour to provide information on its Government's nuclear export policies and practices.

The Government of the Republic of Lithuania has decided that, when considering the transfer of nuclear material, equipment and related technology, including nuclear related dual-use equipment, material and related technology, it will act in accordance with the provisions of INFCIRC/254/Part1, as amended and INFCIR/254/Part2 as amended as well as pertinent guidelines and their annexes.

In reaching this decision, the Government of the Republic of Lithuania is fully aware of the need to contribute to economic development while avoiding contributing in any way to the dangers of a proliferation of nuclear weapons or other nuclear explosive devices, and of the need to remote non-proliferation assurances from the fields of commercial competition.

The Government of the Republic of Lithuania requests that the Director General of the International Atomic Agency to circulate the text of this letter and the attached document to all Member States for their information and as a demonstration of support by the Government of the Republic of Lithuania for the Agency's non-proliferation objectives and safeguards activities.

The Ministry of Foreign Affairs of the Republic of Lithuania avails itself of this opportunity to renew to the Director of the International Atomic Energy Agency the assurances of its highest consideration.

Vilnius, 29 April 2003



TO:
**THE DIRECTOR GENERAL
OF THE INTERNATIONAL ATOMIC ENERGY AGENCY**

EXPORT CONTROL SYSTEM IN LITHUANIA

The Lithuanian Government has revised its current export control regulations to adhere to the Guidelines of the Nuclear Supplier's Group and other international export control regimes. The revision has been made by the export control specialists, responsible of export control administration in Lithuania. The guidelines, regulations, and actual operation of export control systems of member states has been studied very thoroughly.

As a result of efforts made by the Lithuanian Government and cooperative assistance provided by the US and other member states of non-proliferation export control regimes, the beginning for foundation of the legal basis for export control system of Lithuania rests on the decision **adopted by the Government of the Republic of Lithuania on 19 November 1993 on „Creation of control system of import and export of strategic goods and technologies"**. By this decision the export-import control system was commenced in Lithuania in conformity with the requirements of the Multilateral Export Control Co-ordination Committee.

On July 5, 1995 the Parliament of the Republic of Lithuania adopted the Law on Control of Import, Transit and Export of Strategic Goods and Technologies" (No 1-1022). This law entered into force on 1 July 1997 and set forth that the Ministry of Economy licence shall be required for import, transit and export of controlled goods.

Export control of sensitive materials, dual-use goods and technologies that may be used for production of WMD is carried out in line with the principles and requirements set by the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (WA), the Missile Technology Control Regime (MTCR), the Nuclear Suppliers' Group (NSG), the Australia Group and the Chemical Weapons Convention.

The Lithuanian export control system encompasses the main elements common to the most non-proliferation export control systems, including the following:

- Legal and regulatory framework;
- Export control structure and functions;
- Lists of controlled goods and technologies;
- Licensing procedures and practice;
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- Co-operation and industry -government relations;

- Enforcement;
- Regime adherence.

The export control experts of Lithuania participated in various international conferences and workshops that generalised the progress made in the area and emphasised the most urgent issues common to all the countries. Success in export control area to prevent proliferation of WMD markedly depends on cooperation among export control officials.

Development of effective export control system is closely linked with co-operation with foreign institutions, executing and enforcing the export control of strategic goods.

Development and harmonization

Given the importance of Lithuania's future membership in the EU and the steps undertaken to become a member of all main export control regimes, the priority was granted to align the Lithuanian legal basis with the EC Regulation 1334/2000 On Dual Use Goods and its amendments as well as the European Union Code of Conduct on arms control. Particular attention was given **to harmonize the national export control regime with the international export control requirements, tendencies and tasks of export control developments.**

The new Law No IX-1051 On Amendment to the Law on Control of Import, Transit and Export of Strategic Goods and Technologies was approved on July 5, 2002

The purpose of this Law is to implement international agreements and arrangements prohibiting proliferation of weapons of mass destruction and missiles capable of delivering such weapons; to ensure that international commitments are complied with by developing in the Republic of Lithuania an effective system for the control of export, import and transit of strategic goods which would be integrated into the system of export control of the EU and international non-proliferation regimes; to provide conditions for ensuring the security of the Republic of Lithuania, acquisition of modern technologies and growth of foreign trade. This Law shall establish the conditions of control of export, import and transit of strategic goods as well as of activities that may contribute to the proliferation of weapons of mass destruction and conventional weapons.

Law on Amendment to the Law on Control of Import, Transit and Export of Strategic Goods and Technologies have been supplemented with the following major elements:

Control of services

The definition of „strategic goods" includes dual - use goods and military equipment as well as services related to these goods. „Dual - use goods" refer to goods, software and technology, which can be used for both civil and military purposes;

Control of intangible transfers

The definition of „export" also covers the re- export of strategic goods and transmission of software or technology by electronic media, fax or telephone.

Control of brokering activities

The application scope of the Law has been extended, if compared to that of the former Law. The Law shall also be applied to natural and legal persons who are engaged in such activity as brokerage in carrying out export, import and transit contracts.

Catch-all provisions

A „catch-all" clause is included into the amended Law. It provides for that the exporter has to obtain licence for goods not included into the List of strategic goods:

- if the competent authority (Ministry of Economy) has informed the exporter that the goods are or may be intended for use in connection with the WMD;
- or if the purchasing country or the country of destination is subject to the arms embargo adopted by a decision of the EU or the Security Council of the UN, and the goods are or may be intended for use in production of goods listed in the military equipment list;

The exporter is obliged to notify the competent authority when he has grounds for suspecting that the goods are intended to use for military purposes .

Restrictions in granting licences

To decide whether or not to grant an export licence, the competent authority shall take into account:

- Obligations and commitments that the Republic of Lithuania has assumed by ratifying relevant international treaties;
- The national foreign policy and national security interests;
- Requirements of the European Union Code of Conduct on arms exports;
- International non-proliferation regimes and export control arrangements;
- Considerations about intended end-use and the risk of diversion.

The new Law provides for that the Lists of Strategic Goods have to consist of the List of Dual-use Goods and Technologies and the Common List of Military Equipment on the basis of the lists of goods, which are subject to control under the EU, international non-proliferation regimes and taking into account foreign policy and national security interests of the Republic of Lithuania.

Government Resolution No 1390 on Approval of Lists of Controlled Strategic Goods and Technologies entered into force on 20 June 2002. The approved lists of controlled strategic goods consist of two lists:

The List of dual-use goods and technologies, which is close translation of the Annex I of the EU Council Regulation No 1334/2000 of 22 June 2000 setting up a Community regime for the control of exports of dual-use items and technology; This list implements internationally agreed dual use controls including the Wassenaar Arrangement, the Missile Technology Control Regime, the Nuclear Supplier's Group, the Australia Group and the Chemical Weapons Convention.

The List of military equipment, which is close translation of the EU Common list of military equipment covered by the European Union Code of conduct on arms control.

Countries subject to embargo

The List of States, into which export or transit of strategic goods shall be prohibited, and the list of states from which import or transit of strategic goods shall be prohibited was prepared and approved by the Ministry of Foreign Affairs of the Republic of Lithuania on 23 December 2002, taking into account the following:

- Sanctions imposed by decisions the Security Council of the UN;
- Sanctions imposed by decisions the EU and OSCE;
- Ratified relevant international treaties of the Republic of Lithuania
- The national foreign policy, national security, national defence and economic interests

Recently, 27 of March, 2003 Implementation of export, import and transit control and order of licensing procedures was adopted by the Government Resolution Nr.380 in accordance with the requirements of the Law.

Export Control Structure and Functions

In accordance with the Law, the Ministry of Economy is responsible for export controls over dual-use goods and military equipment and implementing administration of the export control system in cooperation with other Lithuanian state institutions. Within the Ministry of Economy, the Division of Export Control of Strategic Goods is authorised to administrate said activities.

Fourteen national institutions are involved in licensing administration and enforcement procedures: Ministry of Foreign Affairs, Ministry of Defence, Ministry of Environment, State Nuclear Safety Inspectorate, Customs Department, State Security Department and other.

Evaluation of applications, administration of issuing licences and Import certificates, and control administration are to be implemented by the resolutions of Government.

The decision to issue the licences for export, import, transit (except for military transit) as well as to issue the import certificates is taken in accordance with the conclusions of the state institutions involved in export control or by the Commission of Experts on the Issuance of Licences for the export, import and transit and Import Certificates of strategic goods.

The Commission of Experts includes seventeen representatives from the involved state institutions.

Licensing Procedures and Practice

The license has to be obtained for export, import and transit of goods included in the Lists of Strategic Goods. Licences shall be issued by the Ministry of the Economy pursuant to the requirements and procedures established within the national legislation.

When deciding whether or not to issue a licence for the export and import of strategic goods, regard must be paid to the provisions of international treaties ratified by the Republic of Lithuania, foreign policy and state security interests of the Republic of Lithuania, requirements of the EU Code of Conduct for Arms Export, international non-proliferation regimes and the circumstances that could be relevant to the intended end-use of strategic goods and the risk of possible use of the goods in question for the production of weapons of mass destruction.

A licence for the export, import and transit of strategic goods shall not be issued, if this is in contravention of the sanctions applied under the decisions of the United Nations Security

Council, the Organisation for Security and Cooperation in Europe, the EU Council or the international treaties of the Republic of Lithuania.

Goods that are not on the Lists of Strategic Goods shall be subject to a licence if the natural or legal person has been notified in writing by responsible state institution that the goods in question are or may be intended for use in connection with the development, production, handling, operation, maintenance, storage, identification or dissemination of WMD or importing country or the country of end-uses is subject to arms embargo imposed by the decisions of the EU Council, the Organisation for Security and Cooperation in Europe, the United Nations Security Council.

There are approved few types of licences: Individual export licence, Individual import licence, Transit license, Individual for temporary export/import, Global export license and Global import license.

An importer, carrier, exporter or an authorised person, wishing to obtain a license for export, import or transit or an Import certificate, shall apply to the Ministry of Economy in accordance with export licensing requirements.

International Treaties

The backbone of the national legislation, the Constitution of the Republic of Lithuania, explicitly prohibits weapons of mass destruction on the territory of Lithuania. Production, transit, acquisition or deployment of WMD or their components in Lithuania is prohibited under the national legislation and international instruments to which Lithuania is a state party.

National export controls on strategic goods and multilateral co-operation aimed at harmonising the said controls are important supplementary measures to universal, legally binding treaties which are key instruments in promoting non-proliferation and disarmament.

One of the first international treaties, which Lithuania acceded to after claiming its Independence in 1990, was the Nuclear Non-Proliferation Treaty signed on 1968. Now Lithuania is a member state to all major non-proliferation treaties, namely the 1968 Nuclear Non-Proliferation Treaty, the 1993 Chemical Weapons Convention, the 1972 Biological and Toxin Weapons Convention, the 1925 Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other

Gases, and of Bacteriological Methods of Warfare as well as the 1996 Comprehensive Nuclear Test Ban Treaty.

Lithuania has acceded to the 1979 Vienna Convention on the Physical Protection of Nuclear Material, signed the Joint 1998 Convention on the Safety of the Spent Fuel Management and on the Safety of Radioactive Waste Management, which amongst other issues touches upon the issue of cross-border movements of nuclear materials.

The international treaties, which are ratified by the Parliament of the Republic of Lithuania, are the constituent part of the legal system and have the force of law on the territory of Lithuania.

Nuclear facilities and nuclear material in Lithuania were placed under the comprehensive International Atomic Energy Agency safeguards shortly after Lithuania had acceded to the Nuclear Non-proliferation Treaty. An agreement between the Government of Lithuania and the International Atomic Energy Agency (IAEA) for the Application of Safeguards was signed in October 1992. On 21 March 2000, Lithuania ratified the Protocol to the Safeguards Agreement that entered into force on 5 July 2000.

In October 1997, Lithuania signed a multilateral memorandum on technical co-operation with the IAEA on preparedness for nuclear emergencies. It provides for mutual information exchange on nuclear accidents and safety measures. The State Nuclear Power Safety Inspectorate provides information on detected cases of illicit trafficking of nuclear and other radioactive materials to the IAEA.

Lithuania is among thirteen European nations outside the EU, which in August 1998 declared their alignment with the criteria and principles contained in the EU Code of Conduct of Arms Export.