

Norwegian Exports of Defence-related Products in 2017, Export Control and International Non-proliferation Cooperation

Summary of the white paper to the Storting submitted on

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1. Background and summary

This white paper describes Norway's export control system for strategic goods and technology¹, including figures for exports of arms, ammunition and other military equipment and components, related technology and services for military use (shortened to 'defence-related products' in the rest of this document) in 2017. The Government has published an annual white paper on exports of defence-related products since 1996, making this the 23rd in the series. During this period, the white paper has been expanded from a short overview of the export control legislation and actual exports to a thorough account of the Government's export control policy, the legislation and the guidelines for the Ministry of Foreign Affairs when dealing with applications concerning the export of defence-related products. Exports are presented in tables and figures that provide a considerable amount of information on which goods have been exported to which countries and their value, and on licences that have been denied in individual years.

Norway has one of the world's strictest export control regimes. Both the defence industry and export control are integral parts of Norway's defence and security policy. One of the aims is to ensure that the Norwegian defence industry is viable and thus provide security of supply both for Norway's armed forces and for those of allied countries. Companies in the defence industry must therefore be able to export their goods. The Government will continue to provide a clear and predictable framework for the export activities of defence industry companies. The Ministry of Foreign Affairs is the authority responsible for the strategic export control regime. Its tasks include policy development, licensing and participation in extensive international cooperation on export control. In addition, the Police Security Service and Norwegian Customs have statutory responsibilities relating to control of goods and enforcement of the export control legislation, including investigating any contravention of the legislation.

One condition that applies to all licences for exports of defence-related products and dual-use items for military use is that exporters must provide quarterly reports on actual exports under each licence. The overview of exports in the white paper is based on the exporters' reports of the goods and technology actually exported under the licences that have been issued.

The e-licensing system hosted by the Ministry makes it possible to deal effectively with applications and other requests concerning the export of strategic goods, to safeguard substantial amounts of commercially sensitive information, and to undertake quality assurance of the large amount of information on actual exports of defence-related products from Norway.

¹ 'Strategic goods' is a collective term for defence-related products, dual-use items and other civilian goods that are also considered to have important military applications.

Over the years, the degree of transparency has been considerably enhanced. Norway is already at the forefront internationally as regards transparency on exports of defence-related products. One of the obligations all parties to the Arms Trade Treaty (ATT) must meet is to submit an annual report to the secretariat by 31 May each year on exports and imports of conventional arms. As a further contribution to transparency, Norway will publish its first report on exports under the ATT. In this way, the Government is seeking to further enhance international transparency on trade in defence-related products. However, this must be done within the framework of the duty of secrecy under the Export Control Act.

Consideration of the annual white paper by the Storting (Norwegian parliament) enhances public and parliamentary access to information on how the Storting's decisions and the Ministry's guidelines are applied in practice. If, in individual cases, special circumstances are considered to apply, the Government will continue its practice of consulting the Storting.

2 Legislation and guidelines

The Ministry of Foreign Affairs is the authority responsible for the control of exports from Norway of weapons, ammunition and other military equipment², dual-use items³ and relevant technology and services. According to a Royal Decree of 18 December 1987, the Ministry exercises the authority assigned to the King under the Export Control Act.

The Export Control Act provides the authority to regulate exports of all goods, services and technology that may be of significance for another country's development, production or utilisation of products for military use, or that may directly serve to develop a country's military capability, including goods and technology that can be used to carry out terrorist acts, see section 131, of the Penal Code. Export licences are issued by the Ministry of Foreign Affairs.

Trading in, offering brokering services or otherwise assisting in the sale of arms and military equipment from one foreign country to another requires special permission. The same applies to strategic goods and technology that are further specified in regulations.

In addition, the Export Control Act includes provisions on the duty to provide the Ministry with information, the duty of secrecy and detailed penal provisions.

2.1 The Export Control Regulations

The Export Control Regulations provide the operational legal framework for the Ministry's implementation of export controls, including licensing requirements.

The control lists form part of the Export Control Regulations, and specify the goods and technology for which an export licence is required. The two lists are for defence-related products (List I) and dual-use items (List II). Control of technology also includes control of

² Defence-related products listed in Ministry of Foreign Affairs List I.

³ Civilian products that have important military applications. Listed in Ministry of Foreign Affairs List II.

intangible transfers of technology. In practice, the lists are the result of negotiations in the multilateral export control regimes of which Norway is a member. The EU has compiled two user-friendly lists from the lists agreed by the different export control regimes, and these are the lists used in Norway's legislation.

The regulations also contain provisions on implementation of the EU Defence Transfers Directive into Norwegian law. The directive is intended to simplify licensing procedures for transfers of defence-related products within the EU/EEA, and sets out rules for certification of recipients.

In addition, the regulations set out certain exemptions from the licensing requirement, and a requirement to hold a licence for brokering services in connection with sales between two foreign countries and, under specified circumstances, for goods that are not included in the control lists.

2.2 Guidelines for the Ministry of Foreign Affairs for dealing with applications concerning the export of defence-related products

A press release from the Ministry of Foreign Affairs issued when the first edition of these guidelines was published explained that the Government was publishing the new guidelines in order to improve the industry's understanding of the framework within which it has to operate. The press release also stated that this would give greater predictability, which is very important since the development, production and marketing of military equipment requires long-term planning.

This continues to be the Government's approach. The aim is to ensure that Norwegian companies have a clear and predictable framework for their export activities. Among other things, this makes it necessary to have clear, long-term guidelines for the Ministry when dealing with applications concerning the export of defence-related products.

Norway's export control regime for defence-related products is based on the Government's statement of 11 March 1959 and the Storting's decision of the same date. The Government's statement includes a passage stating that:

‘... in making decisions, importance shall be attached to foreign and domestic policy assessments, and the primary consideration should be that Norway will not permit the sale of arms or munitions to areas where there is a war or the threat of war, or to countries where there is a civil war.’

In a decision of the same date, the Storting ‘... takes note of the statement made by the Prime Minister on behalf of the Government. The Storting declares most emphatically that arms and munitions may be exported from Norway only after a careful assessment of the foreign and domestic policy situation in the area in question. In the Storting's opinion, this assessment must be conclusive of the question whether such goods are to be exported.’