

**15 Annex - Energy**

**63. LAW ON FOREIGN TRADE IN WEAPONS, MILITARY  
EQUIPMENT AND DUAL-USE ITEMS**

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Pursuant to Article 95 item 3 of the Constitution of Montenegro, I hereby issue the

**Decree Promulgating the Law on Foreign Trade in Weapons, Military Equipment and Dual Use Goods**

**(Official Gazette of Montenegro 80/08 of 26 December 2008)**

I hereby promulgate the Law on Foreign Trade in Weapons, Military Equipment and Dual Use Goods passed by the 23<sup>rd</sup> Parliament of Montenegro at the seventh sitting of the second ordinary session in 2008 on 17 December 2008.

No 01-2113/2

Podgorica, 22 December 2008

President of Montenegro

Filip Vujanović

**LAW**

**ON FOREIGN TRADE IN WEAPONS, military equipment and dual-use ITEMS**

**I BASIC PROVISIONS**

**Subject matter**

**Article 1**

This Law regulates the conditions under which foreign trade in weapons, military equipment and dual-use items (hereinafter referred to as the “controlled goods”) may be conducted, provision of services in relation to controlled goods, conditions and procedure for issuance of licence, competence of the authorities, supervision over the implementation of this Law, as well as other issues of importance for foreign trade in controlled goods.

**Aim of the Law**

**Article 2**

This Law provides conditions for establishment of state control in conducting foreign trade in controlled goods with a view to establishing and protecting defence, security and foreign policy interests of Montenegro and to ensuring compliance with the international obligations assumed by Montenegro.

**Conducting foreign trade in controlled goods**

**Article 3**

Foreign trade in controlled goods may be conducted by a person holding the licence for conducting foreign trade in controlled goods, issued in accordance with this Law.

Prior to the initiation of foreign trade activity, the person referred to in paragraph 1 of this Article is obliged to establish whether the goods in question fall under the category of controlled goods, pursuant to this Law.

### **Due implementation of the regulations**

#### **Article 4**

For procedures conducted in accordance with this Law, the provisions of the law regulating general administrative procedure are to be applied, unless otherwise provided by this Law.

### **Prohibitions**

#### **Article 5**

Technical assistance shall be prohibited if it is:

- intended or may be used for development, production, handling, operation, maintenance, stockpiling, storage, identification or dissemination of chemical or biological weapons, nuclear weapons or other nuclear warheads or is in connection with the development, production, maintenance or stockpiling of missiles capable of delivering such weapons,
- intended or may be used for a military end- use in the countries of destination, which are subject to an arms embargo on the grounds of the common position or joint action adopted by the Council of the European Union, decision of the Organisation for Security and Cooperation in Europe or on the basis of the binding resolution of the United Nations Security Council.

Provision referred to in paragraph 1 indent 1 of this Article shall not refer to the provision of technical assistance in:

- member states of the European Union, Australia, Canada, Japan, New Zealand, Norway, Switzerland, United States of America;
- forms of transmission of information, generally known or representing basic scientific researches,
- verbal form, if it is not related to the goods listed in the national control lists.
- Authority competent for adoption of national control lists

#### **Article 6**

The Government of Montenegro (hereinafter referred to as the "Government") shall, upon the proposal of the Ministry competent for foreign trade issues (hereinafter referred to as the "Ministry"), adopt and update the National Weapons and Military Equipment Control List and National Dual- use Items Control List, as well as other lists for the purpose of:

- harmonization of national legislation with the legislation of the European Union;
- enforcement of sanctions against certain countries, entities and persons or for the application of the conventions in the area of arms control and technology transfer control;
- interests of defence and security of Montenegro;
- controlling the trade in goods which is or may be fully used for development, production, handling, operation, maintenance or other servicing, stockpiling, storage, identification, testing or proliferation of chemical and biological weapons, nuclear weapons or other nuclear warheads or for the purpose of development, production, maintenance or other servicing, testing, stockpiling or proliferation of missiles or other carriers of such weapons.
- Control of the trade in weapons, ammunition or explosive devices and other items which are designed and intended for military purposes and which is not referred to in indent 3 of this Article.

### **Comprehensive clause (Catch-all)**

#### **Article 7**

The licence shall be required for the export of dual-use items not listed in the National Dual-use Items Control List, if:

1) the exporter has been informed by the Ministry that the items are or may be intended, in their entirety or in part, for use connected with development, production, handling, operation, storage, detection, identification or proliferation of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons;

2) the purchasing country or country of destination is under arms embargo, in accordance with the decision issued by virtue of common position or joint action, adopted by the Council of the European Union, decision of the Organisation for Security and Cooperation in Europe or arms embargo imposed by the binding resolution of the United Nations Security Council or if the exporter has been informed by the Ministry that the items in question are or may be intended, in their entirety or in part, for a military end-use.

3) the exporter has been informed by the Ministry that the items in question are or may be intended, in their entirety or in part, for use as parts or components of military items listed in the National Weapons and Military Equipment Control List, exported from the territory of Montenegro without licence stipulated by this Law.

If exporter is aware that dual-use items which he intends to export and which are not listed in National Dual-use Items Control List are intended, in their entirety or in part, for any of the purposes referred to in paragraph 1 of this Article, he must notify the Ministry thereof, which will decide whether or not this items need export licence.

The Government may define the commitment of obtaining the licence for export of dual-use items not listed in National Dual-use Items Control List, if exporter has reasonable doubt that these items are or may be intended, in their entirety or in part, for any of the purposes referred to in paragraph 1 of this Article.

When the commitment of obtaining the licence is defined, in cases referred to paragraphs 1, 2 and 3 of this Article, for the export of dual-use items not listed in National Dual-use Items Control List shall, where appropriate, inform other countries and the European Commission.

The Ministry shall inform customs and other relevant authorities, if it has been informed by other countries on adoption or updating of their regulations, referred to in paragraph 3 of this Article.

### **Control of broker activities**

#### **Article 8**

The licence shall be requested for brokering activities, conducted in relation with weapons and military equipment listed in National Weapons and Military Equipment Control List, located in another country or in the economic territory for which import customs clearance procedure has not been conducted and which are to be exported to the third country.

Licence shall also be requested for brokering activities:

- related to dual-use items which listed in a special part of the National Dual-use Items Control List, or

- If a broker is informed by competent authorities of Montenegro that the items in question are intended for or may be used, in their entirety or in part, for any of the purposes referred to in Article 8 paragraph 1 of this Law.

### **Meaning of the terms**

#### **Article 9**

Some of the terms used in this Law shall have the following meaning:

1) **Foreign trade in controlled goods** shall mean: export, import and delivery of services;

2) **Controlled goods** shall mean:

- weapons, military equipment and technologies provided in the National Weapons and Military Equipment Control List,

- dual used- items provided by the National Dual-Use Items Control List including software and technology, which can be used both for civil and military purposes, and shall include all goods which can be used for both non-explosive uses and assisting in any way in the manufacture of weapons or other nuclear explosive devices;

3) **Person** shall mean: any physical or legal person, that has residence or registered office in the territory of Montenegro, registered for foreign trade in controlled goods ;

4) **Export of the controlled goods** shall mean: taking out or delivery of goods from the territory of Montenegro in compliance with the customs regulations, including transmission of software or technology by electronic media, telephone-fax, or oral transmission of technology by telephone, only where the technology is contained in a document, the relevant part of which is read out over the telephone, or is described over the telephone in such a way as to achieve substantially the same result;

5) **Import of the controlled goods** shall mean: taking in or delivery of goods to the territory of Montenegro in compliance with the customs regulations, including transmission of software or technology by electronic media, telephone-fax, or oral transmission of technology by telephone, only where the technology is contained in a document the relevant part of which is read out over the telephone, or is described over the telephone in such a way as to achieve substantially the same result;

6) **transportation** shall mean any type of transport (land, water, air) of controlled goods from the territory of Montenegro and to the territory of Montenegro;

7) **transits** shall mean any kind of transport (land, water, air) of controlled goods (with and without re-loading), over the territory of Montenegro without putting those items in circulation in Montenegro;

8) **exporter** shall mean any person on whose behalf an export declaration is made, that is the person who, at the time the declaration is accepted, holds the contract with the consignee in the third country and has the power for determining the sending of the item out of the customs territory of Montenegro;

9) **importer** shall mean any person on whose behalf an import declaration is made;

10) **Services** shall mean acquiring benefits, assignment of rights and other business activities referring to controlled goods, including broker services and technical assistance;

11) **Brokering activities** shall mean negotiation or contraction of transactions concerning buying, selling or supplying of controlled goods from one foreign country to another foreign country or providing information to a person who is buying, selling or supplying with those goods from one country to another, excluding the activities such as transport, financial services, insurance, re-insurance, advertising and promotion;

12) **Broker** shall mean a person dealing with broker activities from the territory of Montenegro; physical person who is a national of Montenegro and who has residence on the territory of Montenegro, and conducts brokering activities outside of Montenegro; legal person with registered office in the territory of Montenegro and conducts brokering activities outside of Montenegro;

13) **Technical assistance** shall mean assistance related to development, production, assembling, testing, repairing or maintenance of controlled goods, as well as any other technical service, which may be in a form of instruction, training, transfer of business know-how or consulting services, including all types of oral assistance,

14) **Military end- use** shall mean

- Incorporation of parts or components into military items listed in the National Weapons and Military Equipment Control List;

- Use of production-, test - or analytical equipment and components thereof, for development, production or maintenance of military items listed in National Weapons and Military Equipment Control List,

- Use of any unfinished products in a plant for the production of military items listed in National Weapons and Military Equipment Control List.

## **II PRECONDITIONS FOR CONDUCTING FOREIGN TRADE IN CONTROLLED GOODS**

### **1. Registration**

#### **Register of persons**

##### **Article 10**

Foreign trade in controlled goods may be conducted by a person entered into the Register of persons for conducting foreign trade in controlled goods (hereinafter referred to as the "Register"). The Register shall be kept by the Ministry.

##### **Registration**

##### **Article 11**

Entering into the Register shall be done on the basis of a person's written request.

In addition to the request referred to in paragraph 1 of this Article, applicant is obliged to submit:

- 1) statement of the registered business, from the Central Register of the Commercial Court;
- 2) the name of the bank the person is the depositor of, bank confirmation that the person account has not been blocked for the last six months and the copy of deposited signatures' card;
- 3) confirmation of the relevant authority that the person is not starting bankruptcy procedure;
- 4) certificate of the competent authority that the person has no outstanding obligations under the customs duties and taxes;
- 5) data on the number and structure of employees;
- 6) statement which makes an person obliged to enable and help the Ministry and competent authorities to conduct oversight of business in the area of controlled goods as well as in control of storage facilities and means of transportation,
- 7) a written agreement on the acceptance of security checks.

The Ministry shall, ex officio, acquire the evidence from the competent authority that applicant referred to in paragraph 1 of this Article has not been convicted or that the criminal proceeding for criminal offence against the constitutional order and security of Montenegro, against humanity and rights guaranteed under international law, against life and body, property, as well for other criminal offences with the elements of violence, self-interest or base instincts, has not been initiated against him.

The Ministry shall pass the decision on entry into the Register.

The decision on entry into Register shall be valid for a period of five years.

Person entered into Register shall be obliged to notify, in a written form, all the changes of data based on which it has been entered into Register, within 15 days following that of the change occurrence.

The Ministry shall, by the decision, refuse to make an entry into the Register, if an applicant does not comply with the requirements referred to in paragraphs 2 and 3 of this Article.

The Ministry shall decide on the application form referred to in paragraph 1 of this Article, as well as on the form and the manner of keeping Register.

### **Erasing from the Register**

#### **Article 12**

Ministry will make a decision on erasing the person from the Register if:

- 1) new facts or evidences contrary to the conditions referred to in Article 11 hereof are established
- 2) new facts or evidences are established, which would, alone or in connection with derivative evidences, serve as a reason for erasing from Registrar;
- 3) responsible person in a legal person or the legal person are sentenced by final judgment for criminal offence against payment operations and economic activities or if they are imposed a security measure of prohibiting the job, business activity or duty;
- 4) does not comply with regulations of this Law;
- 5) infringes international sanctions;
- 6) terminates the business activity for which it has been entered into Register,
- 7) submits the request for erasing from Register.

### **2. Licence**

#### **Concept and content of licence**

#### **Article 13**

The licence for conducting foreign trade in controlled goods (hereinafter referred to as the "licence") is a written act of the Ministry, which authorises a person to conduct individual foreign trade activity, with familiar quantity and type of controlled goods under the conditions regulated by the contract.

The licence shall include:

- 1) exporter or importer's name, address and unique personal number;
- 2) name, description, tariff code, number from the national control lists and quantity of controlled goods;
- 3) total value of controlled goods, subject to export or import;
- 4) name and address of a manufacturer, i.e. owner and end- user of the controlled goods;
- 5) manner of collection i.e. payment;
- 6) licence validity period,
- 7) number, date of issuing, seal and signature of the authorised person.

#### **Application for issuance of licence**

#### **Article 14**

Application for issuance of licence shall be submitted to the Ministry and must include:

- 1) importer or exporter's name , address and unique personal identification number;
- 2) name, description, tariff code, number from the national control lists and quantity of controlled goods;
- 3) purpose of controlled goods use;
- 4) total value of controlled goods;

- 5) data on other actors in trade: manufacturer, vendor, owner, buyer, freight forwarder, brokers and trade agents;
- 6) end user' name and address;
- 7) manner of collection i.e. payment;
- 8) proposed licence validity period,
- 9) other data needed for decision making.

In addition to the application referred to in paragraph 1 of this Article, for export of controlled goods, applicant shall submit a valid original end –user certificate (international export certificate), not older than six months and translation of the original certificate attested by a sworn-in court translator, as well as other documents necessary for deciding upon application

Application form referred to in paragraph 1 of this Article, as well as the content and form of other documents necessary for conducting foreign trade in controlled goods are prescribed by the Ministry.

### **Approval of the country of origin and end-user of goods**

#### **Article 15**

In case of export of previously imported controlled goods, Ministry may request from the applicant to, in addition to the licence application, enclose the approval on change of the end- user of goods, issued by the country from which the goods are imported.

### **International import certificate and end user statement**

#### **Article 16**

Certificate on end- user (International import certificate) for import of controlled goods shall be issued by the Ministry, at the request of an importer.

Statement of the end- user shall be issued by an end- user, and at their request may be certified by the Ministry.

### **Approval and position of the competent authorities**

#### **Article 17**

Prior to deciding on application for issuance of licence, the Ministry shall acquire approval from the ministries in charge of foreign affairs, defence and internal affairs.

In case that, any of the ministries referred to in paragraph 1 of this Article, do not give the approval, the Ministry shall not grant the licence.

When applicable, depending on type and purpose of controlled goods, Ministry shall acquire opinion of other competent authorities as well.

### **Criteria**

#### **Article 18**

Within their own competencies, ministries referred to in Article 17 paragraph 1 of this Law, when granting the approval for export in controlled goods and the Ministry while making decision on granting the licence, shall respect the following criteria:

- 1) respect of international obligations of Montenegro, especially sanctions imposed by the United Nations Security Council, international treaties on non-proliferation of weapons, as well as other international obligations;
- 2) respect of human rights in the country of final destination;
- 3) assessment of the internal situation, i.e. existence of tense situation or armed conflicts in the country of final destination;



- 4) keeping peace, security and stability in the region;
- 5) national security of Montenegro, as well as security of the countries Montenegro has partnership relations with;
- 6) conduct of purchasing country in relation towards the international community, especially its attitude towards terrorism, the nature of its alliances and respect of the international law;
- 7) existence of risk that the goods, that are to be exported, shall be re-directed within the country of final destination or shall be re-exported under unfavourable conditions,
- 8) compatibility of weapons export with the technical and economic capabilities of a receiving country, taking into consideration the needs of the country to fulfil its legitimate security and defence tasks with the least possible reallocation of human and economic resources for purchasing weapons.

### **Assessment of criteria**

#### **Article 19**

While assessing criteria referred to in Article 18 hereof, special attention shall be paid to:

- international obligations of Montenegro and its obligations to enforce arms embargo of United Nations, Organisation for Security and Cooperation in Europe and European Union;
- international obligations of Montenegro pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons, Biological and Toxin Weapons Convention and Chemical Weapons Convention;
- obligation of Montenegro not to export any kind of antipersonnel mines,
- risks that indicated receiver shall use the goods for aggression against another country, or in sense of realisation of territorial claims.

When assessing the criteria referred to in paragraph 1 of this Article, the following shall also be taken into consideration:

- possibility of clear risk that goods may be used for internal repression;
- type of equipment, for the countries in which relevant bodies of the United Nations, Council of Europe or European Union have identified serious human rights violations;
- existence or possibility of armed conflicts between the receiving country and another country;
- claiming the right over the territory of a neighbouring country, which a receiving country tried to attain in the past by using force or threatened to do that;
- possibility that the goods may be used for the purposes which are not related to the legitimate national security and defence of the receiving country;
- unfavourable influence to the regional stability;
- potential impact of the goods on the defence and security interests of Montenegro, as well as interests of the countries Montenegro has partnership relations with, accepting that this factor may not influence the application of the criteria on respect of human rights, protection of peace, security and stability in the region;
- risk that subject of the export shall be used against Armed Forces of Montenegro, or against armed forces of the countries Montenegro has partnership relations with ;
- risk of not intended technology export;
- need to protect interests of Armed Forces of Montenegro;
- legitimate defence and internal security interests of a receiving country, including possible involvement in peacekeeping activities of the United Nations or other peacekeeping activities;

- technical capability of a receiving country to use the imported equipment;
- capability of a receiving country to conduct effective export control;
- conduct of the end- user country towards terrorism and international organized crime;
- fulfilment of the international obligations, particularly in relation to non –usage of force, including those obligations arising from international humanitarian law, applicable to international and internal conflicts;
- support to non- proliferation and other areas of arms and disarmament control, especially the signing, ratification and implementation of the relevant conventions on arms and disarmament control,
- risk that weapons shall be re-exported or re-directed to terrorist organizations.

**Assessment of possible effects**

**Article 20**

In addition to the criteria referred to in Article 18 hereof, the special attention shall be paid to the possible effects of export of controlled goods on:

- economic, financial and commercial interests of Montenegro, including long-term interests, as well in establishing stabile and democratic relations with trade partners;
- relations of Montenegro with a country to which the export shall be conducted;
- transformation and revival of industry,
- overall economic development of Montenegro.

### **Deadline for submitting approval**

#### **Article 21**

Ministries in charge of foreign affairs, defence and internal affairs are obliged to deliver their position related to the application for issuance of licence, within 30 days following that of receiving the request for approval, i.e. within 60 days, should the additional checks be needed for a process of granting approval.

### **Granting licence**

#### **Article 22**

The Ministry shall decide on the licence application within seven days following that of receiving of positions from the ministries referred to in Article 21 of this Law, i.e. at the latest within 90 days following that of the duly submitted application for issuance of licence.

### **Refusal to grant a licence**

#### **Article 23**

The Ministry shall refuse to grant a licence if:

- 1) person is not entered into Register;
- 2) It is established that the goods for which the licence has been requested are subject to the court dispute;
- 3) person provides false data in the licence application;
- 4) person fails to submit International Export Certificate, or has submitted a certificate older than six months, or certificate which is not translated by the sworn-in court translator;
- 5) person fails to submit an evidence of paid administrative fee,
- 6) the ministries referred to in Article 17 paragraph 1 of this Law do not provide the approval to the submitted request.

In case of refusing licence application, the Ministry shall inform the applicant on reasons due to which the licence has not been granted, not revealing secret data or protected data, in accordance with the law.

### **Licence validity period**

#### **Article 24**

As a rule, licence shall be granted for a period of one year.

If realisation of the foreign trade activity lasts longer than a year, the Ministry may extend the licence validity period up to the date of finalising the activity as foreseen in the contract, but not longer than three years.

Licence and other documents granted in compliance with this Law may not be delegated to another person.

In case of acting in contrary to the paragraph 3 of this Article, person on whose behalf a licence and other documents are granted, shall lose the rights provided by the granted licence.

### **Annulment of licence**

#### **Article 25**

The Ministry shall annul the issued licence if it is confirmed that:

- 1) the licence has been issued based on false or incorrect data, or the conditions for issuing the licence have considerably changed, since the issuing date;

2) person or foreign trade transaction jeopardised security and foreign policy interest of Montenegro,

3) person fails to comply with the conditions stated in licence.

In case referred to in paragraph 1 of this Article, Montenegro shall not be held responsible for damages caused by annulment of the licence.

### **Right to administrative dispute**

#### **Article 26**

An appeal shall may not be lodged against the decisions of the Ministry referred to in Article 11 paragraphs 4 and 7, Article 12, Article 22, Article 23 and Article 25 hereof.

Administrative dispute may be initiated against the decisions referred to in paragraph 1 of this Article.

### **Obligations of persons conducting foreign trade in controlled goods**

#### **Article 27**

Person conducting foreign trade in controlled goods is obliged to:

1) keep special records on foreign trade in controlled goods and the documentation, at least for the period of 10 years following the completion of foreign trade activity;

2) immediately, and within 15 days at the latest, inform the Ministry in writing on any changes occurred, related to a particular foreign trade activity in controlled goods;

3) within 15 days on completing a foreign trade activity in controlled goods, inform the Ministry in writing on completed activity and submit relevant documentation;

4) return obtained licence to the Ministry if the licence has not been realised, within 15 days following that of licence expiry date,

5) at the request of the Ministry, submit certificate issued by the final destination country or an end- user, which confirms reception of controlled goods.

Documentation referred to in paragraph 1 item 3 of this Article shall include:

- information on completed foreign trade activity in controlled goods;
- copy of the licence based on which the foreign trade activity in controlled goods has been conducted;
- Certified copy of the single customs document,
- Other documents, depending on the type of goods.

### **Transport and transit of controlled goods**

#### **Article 28**

Transport of controlled goods by land and water shall be authorised by the Ministry in charge of internal affairs and based on the licence granted by the Ministry for conduct of concrete foreign trade activity in controlled goods.

Transport of controlled goods by air shall be authorised by the administration body in charge of the civil aviation and based on the licence granted by the Ministry for conduct of concrete foreign trade activity in controlled goods.

Transit of controlled goods by land and water shall be done based on the licence of the ministry in charge of internal affairs.

Transit of controlled goods by air shall be based on the licence granted by administration body in charge of civil aviation affairs.

The manner and procedure of granting licence for transport and transit of controlled goods by land and water shall be regulated in more details by act of the ministry in charge of internal affairs, while transport and transit by air by the act of the ministry in charge of transport issues.

#### **Notification**

#### **Article 29**

If the Ministry refuses to grant or if it annuls the licence, the Ministry in charge of foreign affairs shall, in accordance with the international obligations of Montenegro, inform other countries thereof.

Before the Ministry grants an export licence which has been rejected by another country for the same activity in the last three years, it will first consult the country which rejected the issuance.

If following the consultations with the country referred to in paragraph 2 of this Article, the Ministry nevertheless decides to grant the licence, it shall notify that country and provide relevant information to explain the decision.

### **III RECORDS AND REPORTING**

#### **Records of the Ministry**

#### **Article 30**

The Ministry shall keep the records on issued and annulled licences and refused and rejected applications for issuing licences, in compliance with this Law.

#### **Record of the Ministry in charge of foreign affairs**

#### **Article 31**

In order to implement the control over export and import of controlled goods, Ministry in charge of foreign affairs shall update and publish the list of countries subjected to embargo imposed by United Nations Security Council, Organisation for Security and Cooperation in Europe and the Commission of the European Union.

## **Reporting**

### **Article 32**

The Ministry is obliged to, not later than 30 April of the current year, prepare and submit to the Government, the annual report on realisation of foreign trade in controlled goods for the previous year.

The Ministry is obliged to publish the report referred to in paragraph 1 of this Article, on its web-page, excluding data considered as confidential and protected data, in accordance with the law.

## **IV SUPERVISION**

### **General provisions on supervision**

#### **Article 33**

The Ministry conducts supervision over the implementation of this Law and regulations adopted based on this Law, in cooperation with the ministries in charge of defence, internal and foreign affairs, and whenever applicable, and depending on the type and purpose of controlled goods, with other relevant authorities.

Supervision referred to in paragraph 1 of this Article shall be conducted by the Ministry through the authorised officer, in accordance with the law.

### **Enabling the supervision**

#### **Article 34**

Person dealing with foreign trade in controlled goods has to insure the insight to the relevant authority referred to in Article 33 hereof, in order to conduct supervision in all stages of trade, transport, transit and storage of controlled goods.

### **Prevention of disappearance and damages of goods**

#### **Article 35**

Person, who conducts foreign trade in controlled goods or purchases and keeps the controlled goods, shall undertake all the necessary measures in order to prevent disappearance or damages of the goods.

In case of disappearance or damages of the controlled goods, person referred to in paragraph 1 of this Article shall inform the Ministry within 24 hours from the time of disappearance or damage of the goods.

### **Obligation of the customs authority**

#### **Article 36**

Customs authority may, within its competencies, restrict or stop foreign trade in controlled goods and seize the controlled goods and immediately inform the Ministry thereof.

The manner of conduct of customs authority in implementation of this Law shall be stipulated by the Ministry competent for the financial issues.

## **V PENALTY PROVISIONS**

### **Violations**

#### **Article 37**

A fine ranging from the amount of thirty to three hundred times of the amount of minimal wage in Montenegro shall be imposed on a legal person and entrepreneur who conduct foreign trade of controlled goods if:

- fails to notify the Ministry on all the changes of data based on which it is entered into Register (Article 11 paragraph 5);
- assigns licence or other documents received based on this Law to another person (Article 24 paragraph 3);
- does not keep separate records on foreign trade in controlled goods and does not keep the documentation for at least ten years after completing a foreign trade business (Article 27 paragraph 1 item 1);
- immediately, and within 15 days, does not inform the Ministry in writing on any occurred change, related to the concrete business of foreign trade in controlled goods (Article 27 paragraph 1 item 2);
- fails to inform the Ministry in writing on concluded business and fails to submit the documentation within 15 days on completing the business of foreign trade in controlled goods (Article 27 paragraph 1 item 3);
- does not return unrealised licence to the Ministry within 15 days following that of the expiry of licence validity date (Article 27 paragraph 1 item 4);
- upon the request of the Ministry, fails to submit the receipt issued by the destination country or end user confirming reception of controlled goods (Article 27 paragraph 1 item 5);
- fails to undertake all the necessary measures aiming at prevention of disappearance or damages of controlled goods.(Article 35 paragraph 1),
- fails to inform the Ministry within 24 hours in case of disappearance or damaging of controlled goods (Article 35 paragraph 2).

For violations referred to in paragraph 1 of this Article a physical person and responsible person in legal person shall be fined with a fine ranging from five to twenty times of the amount of minimal wage in Montenegro.

## **VI TRANSITIONAL AND FINAL PROVISIONS**

### **Regulations for implementation of the Law**

#### **Article 38**

Secondary legislation for implementation of this Law shall be passed within six months from the day of entry into force of this Law.

### **Initiated proceedings**

**Article 39**

To the proceedings initiated prior to enforcement of this Law, the provisions of this Law will be applied, if the proceeding has not been finalized, provided that it is more favourable to the client.

**Termination of the Law**

**Article 40**

The Law on Foreign Trade in Weapons, Military Equipment and Dual Use Goods (Official Gazette of Serbia and Montenegro 7/05) and the Decree on appointing the authorities competent for implementation of the Law on Foreign Trade in Weapons, Military Equipment and Dual Use Items (Official Gazette of Republic of Montenegro 5/07) shall not apply from the day of commencement of application of this Law.

**Entry into force**

**Article 41**

This Law shall enter into force on the eight day following that of its publication in the Official Gazette of Montenegro and shall apply from 1 July 2009.

SU-SK No 01-985/6

Podgorica, 17 December 2008

Parliament of Montenegro

Speaker,

Ranko Krivokapić,