

Strategic Goods Act¹
Passed 17 December 2003
(RT² I 2004, 2, 7),
entered into force 5 February 2004,

Chapter 1 **General Provisions**

§ 1. Scope of application

- (1) This Act regulates:
- 1) the export of strategic goods and transit thereof through Estonia;
 - 2) the import of military goods;
 - 3) the export of services related to military goods;
 - 4) ensuring control over the import and end-use of strategic goods.
- (2) This Act, excluding the provisions concerning the ensuring of control over the import and end-use of strategic goods, does not apply to:
- 1) the carriage of weapons and ammunition across the customs frontier on the basis of a special permit specified in subsection 59 (3) of the Weapons Act (RT I 2001, 65, 377; 88, 531; 102, 673; 2002, 29, 175; 53, 336; 61, 375; 63, 387; 110, 653; 2003, 66, 449; 88, 594; 2004, 2, 7; RT III 2004, 7, 70; RT I 2004, 25, 170; 30, 208);
(09.06.2004 entered into force 18.07.2004 - RT I 2004, 53, 366)
 - 2) the import and export of service weapons and ammunition of governmental authorities, local government bodies and authorities and courts with the intention of returning such goods in an unaltered state on the basis of a permit issued by the appropriate minister;
 - 3) the import and export of military weapons, ammunition, battle equipment and other special equipment used for defence purposes with the intention of returning such goods in an unaltered state on the basis of a special permit of the Ministry of Defence.
- (3) The Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375; 2003, 20, 117; 78, 527) applies to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.
(09.06.2004 entered into force 18.07.2004 - RT I 2004, 53, 366)

§ 2. Strategic goods

- (1) “Strategic goods” means military goods and dual-use goods.
- (2) “Military goods” means substances, materials, devices, equipment, systems and components thereof, software and technology used for military purposes, i.e.:
- 1) used for military purposes in their entirety;
 - 2) incorporated into military items;
 - 3) used for the development, manufacture, assembly, testing, analysis, handling, transport, maintenance or storage of military items;
 - 4) used for the development, manufacture, handling, transport, maintenance or storage of production-, test- or analytical equipment for military items.
- (3) The provisions concerning military goods also apply to weapons of mass destruction, missiles for delivery of such weapons and goods used to commit human rights violations, unless otherwise provided by law.

(4) “Goods used to commit human rights violations” means goods which cannot be used for purposes other than capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

(5) “Dual-use goods” means goods within the meaning of Article 2.a of Council Regulation 1334/2000/EC setting up a Community regime for the control of exports of dual-use items and technology (OJ L 159, 30.06.2000, pp. 1–5).

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(6) The provisions concerning dual-use goods also apply to goods which, inter alia, may be used to commit human rights violations unless otherwise provided by law.

(7) The list of strategic goods shall be established by a regulation of the Government of the Republic and the list shall include a list of military goods, list of goods used for violation of human rights and list of dual-use goods to the extent provided in Article 5.1 of Council Regulation 1334/2000/EC.

(09.06.2004 entered into force 18.07.2004 - RT I 2004, 53, 366)

§ 3. Services related to military goods

(1) For the purposes of this Act, “services related to military goods” (hereinafter services) means the provision of benefits or transfer of rights related to military goods and not specified in subsection 2 (2) of this Act in the course of business activities, including brokering and technical assistance.

(2) For the purposes of this Act, “brokering” means:

1) the provision or making available of information, practical assistance or funds with a view to arranging or negotiating the arrangement of transactions relating to military goods that involve the transfer of goods from a foreign country to any other foreign country;

2) the acquisition of military goods located in a foreign country with a view to transferring the goods to another foreign country.

(3) The marketing of goods of Estonian origin located in Estonia shall not be deemed to be brokering.

(4) For the purposes of this Act, “technical assistance” means any technical support related to development, manufacture, assembly, testing, repairs, transport or maintenance of military goods, or any other relevant service, and may take forms such as written or oral instruction, training, transmission of working knowledge or skills or consulting services.

§ 4. Import, export and transit

(1) For the purposes of this Act, “import” means the carriage of military goods to Estonia.

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(2) For the purposes of this Act, “export” means:

1) export of dual-use goods within the meaning of Article 2.b of Council Regulation 1334/2000/EC;

2) conveyance of military goods from Estonia;

3) the transmission of software or technology related to military goods by an electronic data processing system, telephone or fax to a foreign country. Oral transmission of information by telephone is deemed to be export only where the technology is contained in a document and the document or a relevant part thereof is read out over the telephone, or is described over the telephone in such a way as to achieve substantially the same result;

4) the provision of services, including brokering and technical assistance, from Estonia to a foreign country or to a foreign recipient of services regardless of the residence of the service provider who is a natural person or seat of the service provider who is a legal person or through the business activity of an Estonian service provider in a foreign country.

(09.06.2004 entered into force 18.07.2004 - RT I 2004, 53, 366)

(3) For the purposes of this Act, “transit” means:

1) carriage of dual-use goods through Estonia from a country outside of the European Community (hereinafter third country) to another third country;

2) carriage of military goods through Estonia.

(09.06.2004 entered into force 18.07.2004 - RT I 2004, 53, 366)

(4) The procedure for customs formalities in the case of strategic goods shall be established by a regulation of the Government of the Republic.

§ 5. Special authorisation

(1) Special authorisation shall be required for the import, export and carriage in transit of goods included in the list of strategic goods and for the provision of services.

(2) Special authorisation shall also be required for the import, export or transit of goods and the provision of services if the Strategic Goods Commission is of the opinion and has informed the holder or owner of the goods or the declarant that the goods have the characteristics of strategic goods, although they have not been entered in the list of strategic goods.

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(3) An Individual Import Licence, Export Licence, Transit Permission or General Export Authorisation shall constitute special authorisation.

(3¹) An Export Licence is required in the cases specified in Article 21.1 and 21.2 of Council Regulation 1334/2000/EC.

(09.06.2004 entered into force 18.07.2004 - RT I 2004, 53, 366)

(4) In order to export strategic goods or carry such goods in transit through Estonia to a third country, an Export Licence, Transit Permission or a General Export Authorisation User Certificate shall be submitted to the customs authorities together with the customs declaration.

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(5) In order to import military goods from a third country, an Individual Import Licence shall be submitted in the course of customs formalities upon entry in the

Community customs territory, and to customs authorities for the release of goods from customs supervision.

(09.06.2004 entered into force 18.07.2004 - RT I 2004, 53, 366)

(6) Upon the provision of services, an Export Licence or a General Export Authorisation User Certificate shall be submitted at the request of the supervisory agency.

§ 5¹. Community transfers of strategic goods

(1) Upon the carriage of military goods and the dual-use goods listed in Annex IV to Council Regulation 1334/2000/EC from a Member State to Estonia or from Estonia to a Member State (hereinafter Community transfers), the data concerning the special permit, goods and itinerary shall be transmitted to the customs authorities at least twenty four hours before conveyance of the goods over the state border of Estonia.

(2) The customs authorities shall be immediately informed of any change to the information transmitted thereto pursuant to subsection (1) of this section.

(3) The customs authorities shall send immediate confirmation, by electronic media or fax, of the receipt of the information to the submitter of the information.

(4) Based on submitted information, the customs authorities shall evaluate the risks.

(5) The customs authorities have the right to request submission of a special permit, accompanying documents of goods and the goods at a location determined by the customs authorities.

(6) The Tax and Customs Board shall keep record of the information submitted to the customs authorities pursuant to subsection (1) of this section, and shall forward such information to the commission once a month.

(7) The procedure for the Community transfers of strategic goods and a list of information to be submitted to customs offices shall be established by a regulation of the Government of the Republic.

(09.06.2004 entered into force 18.07.2004 - RT I 2004, 53, 366)

§ 6. Ensuring control over import and end-use of strategic goods

Control over the import and end-use of strategic goods shall be ensured by an International Import Certificate, End-Use Certificate or Delivery Verification Certificate (hereinafter end-use control documents) at the request of the appropriate authorities of the country of consignment of the goods.

§ 7. Restrictions on import, export and transit

(1) The following are prohibited:

- 1) the export and transit of military goods, and provision of services to countries subject to relevant sanctions binding on Estonia which are established by an institution specified in subsection 1 (1) of the International Sanctions Act (RT I 2002, 105, 612; 2004, 2, 7) (hereinafter international sanction), regardless of special authorisation; (09.06.2004 entered into force 18.07.2004 - RT I 2004, 53, 366)
 - 2) the diversion from their intended destination of goods subject to state supervisory control over the import and end-use of strategic goods without the written permission of the Strategic Goods Commission and re-export of such goods without special authorisation;
 - 3) the export and transit of weapons of mass destruction, any materials, hardware, software and technology used for the manufacture of weapons of mass destruction, and the export and transit of antipersonnel mines, and services related thereto regardless of their country of destination;
 - 4) the import, export and transit of goods used to commit human rights violations and the provision of services related thereto regardless of their country of destination, unless such goods are displayed as objects of historical value in a museum;
 - 5) the export and transit of other strategic goods, the import of other military goods, and services prohibited by international agreements binding on Estonia.
- (2) The export and transit of military goods, and provision of services to countries subject to international sanctions is permitted on the basis of an Export Licence or Transit Permission pursuant to the procedure provided for in subsection 3 (3) of the International Sanctions Act, on the condition that the sanction allows for such a possibility.
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Chapter 2

Strategic Goods Commission

§ 8. Strategic Goods Commission

- (1) The Strategic Goods Commission (hereinafter commission) shall be formed at the Ministry of Foreign Affairs and the commission shall perform functions assigned to it by this Act, other legislation and international agreements.
- (2) The commission shall be formed by an order and its statutes established by a regulation of the Government of the Republic.
- (3) The commission shall include representatives of the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of Economic Affairs and Communications, the Security Police Board, the Police Board and the Tax and Customs Board. The commission may involve representatives of other administrative agencies and other specialists in the performance of its functions.
- (4) The Minister of Foreign Affairs or an official of the Ministry of Foreign Affairs who is a member of the Commission and designated by the Minister shall chair the commission.

§ 9. Decisions and precepts of commission

- (1) For the performance of its functions, the commission shall adopt decisions and issue precepts.

(2) Factual basis of a decision of the commission or a part of such factual basis shall not be published if it contains information which is not subject to publication pursuant to the State Secrets Act (RT I 1999, 16, 271; 82, 752; 2001, 7, 17; 93, 565; 100, 643; 2002, 53, 336; 57, 354; 63, 387; 2003, 13, 67; 23, 147; 2004, 2, 7; 43, 300).

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(3) If the commission revokes its decision to the detriment of a person due to predominant public interest, proprietary damage which is caused or will certainly be caused to the person due to the person's certainty in the commission's decision shall not be compensated for to the person.

(4) A decision or precept of the commission may be contested in an administrative court pursuant to the Code of Administrative Court Procedure (RT I 1999, 31, 425; 33, correction notice; 40, correction notice; 96, 846; 2000, 51, 321; 2001, 53, 313; 58, 355; 2002, 29, 174; 50, 313; 53, 336; 62, 376; 2003, 13, 67; 23, 140).

§ 10. Databases

(1) In order to ensure the operation of the commission, the Ministry of Foreign Affairs shall maintain:

1) the state register of brokers of military goods, and
2) the database of Individual Import Licences, Export Licences, Transit Permissions, General Export Authorisation User Certificates and end-use control documents relating to strategic goods which is a state agency database, as defined in the Databases Act (RT I 1997, 28, 423; 1998, 36/37, 552; 1999, 10, 155; 2000, 50, 317; 57, 373; 92, 597; 2001, 7, 17; 17, 77; 2002, 61, 375; 63, 387; 2003, 18, 107; 26, 158).

(2) Access to information entered in the databases specified in subsection (1) of this section is restricted pursuant to this Act, the State Secrets Act, the Public Information Act (RT I 2000, 92, 597; 2002, 61, 375; 63, 387; 2003, 25, 153; 26, 158; 32, correction notice) and the Personal Data Protection Act (RT I 2003, 26, 158).

(3) Third parties shall have access to the databases specified in subsection (1) of this section if the parties have a justified interest therein. The commission may refuse to issue information if the applicant's interest is not sufficiently justified or if granting access may damage the interests of the person who submitted the information access to which is applied for.

(4) The list of persons entered in the state register of brokers of military goods is public.

(5) The state register of brokers of military goods shall be established and its statutes shall be approved by a regulation of the Government of the Republic.

(6) The database of Individual Import Licences, Export Licences, Transit Permissions, General Export Authorisation User Certificates and end-use control documents relating to strategic goods and the procedure for maintenance thereof shall be established by a regulation of the Minister of Foreign Affairs.

§ 11. Obtaining and use of information

(1) The commission has the right to obtain from persons and agencies information and documentation necessary for the performance of its work.

(2) By collecting and using information, the commission shall co-operate with appropriate foreign authorities and international organisations and perform the

consultation obligation and the obligation to exchange information concerning strategic goods imposed on Estonia by international agreements.

(3) The commission shall not make public any documents or information at its disposal if the making of such documents or information public is prohibited by law or international agreements.

(4) The commission shall not make public any documents at its disposal if the person who submitted the documents to the commission has designated information contained therein as a business secret.

(5) The provisions of subsections 9 (2) and 10 (3) of this Act and subsections (3) and (4) of this section do not prejudice:

- 1) the use or exchange of information by authorities if this is necessary for the performance of the functions of these authorities;
- 2) the use of information in pre-trial proceedings or court proceedings or to enforce and comply with a court judgment;
- 3) the transmission of information to appropriate foreign authorities and international organisations;
- 4) the transmission or use of information in other cases prescribed by or on the basis of law.

Chapter 3

Import, Export and Transit of Strategic Goods and Provision of Services

Division 1

Import, Export and Transit of Strategic Goods and Provision of Services on Basis of Individual Import Licences, Export Licences and Transit Permissions

§ 12. Individual Import Licence, Export Licence and Transit Permission

(1) Individual Import Licence is a document which grants the person specified in the document the right to import military goods into Estonia under the conditions set out in the licence.

(2) Individual Export Licence and Global Export Licence are Export Licences.

(3) Individual Export Licence is a document which grants the person specified in the document the right to export strategic goods or to provide services related to strategic goods to a single country or place of destination and to a single consumer under the conditions set out in the licence.

(4) Global Export Licence is a document which grants the person specified in the document the right to export strategic goods to one or several countries or places of destination and to one or several consumers under the conditions set out in the licence.

(5) Transit Permission is a document which grants the principal the right to carry strategic goods through Estonia under the conditions set out in the permission.

(09.06.2004 entered into force 18.07.2004 - RT I 2004, 53, 366)

§ 13. Application for Individual Import Licence, Export Licence and Transit Permission

(1) In order to obtain an Individual Import Licence, Export Licence or a Transit Permission (hereinafter licence), a standard format application and documents meeting the requirements shall be submitted to the commission. An application shall be signed by

an applicant who is a natural person personally or by the legal representative of an applicant who is a legal person.

(2) The format of applications for licences shall be established by a regulation of the Minister of Foreign Affairs.

(3) The terms and procedure for the application for, issue, renewal, modification, suspension of validity and revocation of licences and the list of documents and information to be submitted upon application for a licence shall be established by a regulation of the Government of the Republic.

§ 14. Exemptions from requirement to apply for licence

(1) A licence need not be applied for in cases where Estonia has entered into an agreement with an international organisation or the country of consignment or destination of the goods for the organisation of the export or transit of strategic goods, the import of military goods or the provision of services.

(2) In the case of services related to military goods, service providers who operate within the framework of a military or humanitarian mission pursuant to a decision of the Ministry of Defence, the Rescue Board, the Police Board, the Security Police Board or the Border Guard Administration shall be exempt from the obligation to apply for a licence.

§ 15. Issue of licence

(1) The commission shall make a decision concerning the issue of or refusal to issue a licence. When exercising the right of discretion, the commission shall, inter alia, take into consideration the country of consignment and destination of the goods or services.

(2) The standard format and technical description of licences and the list of data to be entered on a licence shall be established by a regulation of the Minister of Foreign Affairs.

§ 16. Grounds for refusal to issue licence

(1) The commission shall refuse to issue a licence, if:

1) the goods are subject to the restrictions specified in clauses 7 (1) 1), 3), 4) and 5) of this Act;

2) there is information that the goods may be used to commit human rights violations in the country of destination;

3) there is information that the goods may be used to endanger national, regional or international security, including for terrorist acts;

4) there is information that, in the country of destination, the goods may be diverted from their original destination or re-exported under conditions endangering security;

5) the import, export or transit of goods or services is in conflict with the international obligations of Estonia.

(2) The commission may refuse to issue a licence, if:

1) the import, export or transit of strategic goods or services endangers or may endanger the interests or security of Estonia;

2) false information or documents with elements of falsification were knowingly submitted upon application for the licence;

- 3) within five years before the decision to issue the licence, the applicant has violated legislation relating to the import, export and transit of strategic goods or a precept issued on the basis thereof;
 - 4) within five years before the decision to issue the licence, the applicant has violated an international sanction;
 - 5) criminal proceedings have commenced concerning the applicant;
 - 6) the import, export or transit of strategic goods or services endangers or may endanger the interests or security of a state which is an ally to Estonia;
 - 7) strategic goods are going to be transported to a region where there is an armed conflict or danger of an armed conflict;
 - 8) the export of goods to the country of destination or end-user is in conflict with the guidelines of any organisation for export control and non-proliferation of weapons of mass destruction of which Estonia is a member;
 - 9) there is information that strategic goods produced in the country of destination using know-how or technology exported from Estonia may be exported from that country or diverted from their original destination in the country under conditions endangering security;
 - 10) other good reasons exist.
- (3) Subsections (1) and (2) of this section do not apply if a licence is issued in connection with surveillance activities in order to detect criminal offences and ascertain facts relating thereto.

§ 17. Term of licence

- (1) The term of validity of an Individual Import Licence and Export Licence shall be up to one year. The commission shall determine the term of validity of each licence issued on the basis of information submitted.
- (2) The term of validity of a Transit Permission shall be up to one month. The commission shall determine the term of validity of each Transit Permission issued on the basis of information submitted.
- (3) If customs formalities on all the goods specified in a licence are completed, the licence shall be deemed to be invalid regardless of the term of validity of the licence.

§ 18. Renewal of term of licence

- (1) In order to renew the term of a licence, a written application together with an explanation shall be submitted to the commission not later than ten days before the end of the term of the licence.
- (2) The commission shall make a decision to renew or refuse to renew the term of a licence taking into consideration the grounds specified in § 16 of this Act.

§ 18¹. Amendment of licences

In the case provided in Article 7.2 of Council Regulation 1334/2000/EC, the commission may adopt, at the request of a Member State of the European Union, a decision for amendment of a licence. In such event, the licence is revoked and a new licence is issued under amended conditions.

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§ 19. Revocation of licence and suspension of validity of licence

- (1) A licence shall be revoked by a decision of the commission if:
 - 1) the holder of the licence submits a corresponding request;
 - 2) new facts become evident which, had they been known or existed at the time of reviewing the application for a licence, would have resulted in a refusal to issue a licence;
 - 3) significant changes in the information specified in the licence occur;
 - 4) the holder of the licence fails to comply with the conditions of the licence or the legislation relating to the import, export and transit of strategic goods;
 - 5) the licence is destroyed or lost;
 - 6) the holder of the licence who is a legal person is dissolved or the holder of the licence who is a natural person dies.
- (2) In the case of significant changes in the information in the licence, the commission shall issue a new licence containing amended information on the basis of an application and new documents submitted by the person.
- (3) If a licence is destroyed or lost, the commission shall issue a new licence concerning the quantity of goods not yet supplied on the basis of an application submitted by the person and the documents submitted upon application for the licence which is destroyed or lost.
- (4) The commission has the right to suspend the validity of a licence until the facts specified in clauses (1) 2) and 4) of this section are ascertained.

(09.06.2004 entered into force 18.07.2004 - RT I 2004, 53, 366)

- (5) The commission shall immediately notify the Tax and Customs Board of the revocation or suspension of validity of a licence. The commission shall notify the Security Police Board of the revocation or suspension of validity of a licence issued for the provision of services.

§ 20. Return of licence

- (1) A licence shall be returned to the commission within ten calendar days after becoming aware of the revocation of the licence or after suspension of the licence, unless the licence is destroyed or lost.
- (2) If a licence is revoked as a result of significant changes in the data on the licence, it shall be returned to the commission upon the issue of a new licence.
- (3) Upon failure to return a licence to the commission on time, the commission may impose a penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act (RT I 2001, 50, 283; 94, 580). The upper limit of penalty payment is 10 000 kroons.

§ 21. Obligation to preserve documents

- (1) A person who has been issued a licence is required to preserve documents relating to the import, export and transit of strategic goods for at least ten years as of 1 January of the year following the preparation of the document.
- (2) Documents containing the following information shall be preserved:
 - 1) the description of the goods;
 - 2) the quantity of the goods;

- 3) the dates of carriage of the goods across the customs frontier;
- 4) the names and addresses of the parties to the transaction;
- 5) the end-user and end-use of the goods;
- 6) other information for the preservation of which the commission has issued a precept.

Division 2

Export of Strategic Goods and Provision of Services on Basis of General Export Authorisation

§ 22. General Export Authorisation

(1) A General Export Authorisation grants a person, after having obtained a General Export Authorisation User Certificate (hereinafter certificate), the right to export strategic goods or provide services related to military goods under the conditions and to the countries of destination specified in the General Export Authorisation.

(2) A General Export Authorisation may be established by a regulation of the Government of the Republic. An European Union General Export Authorisation shall be established by Council Regulation 1334/2000/EC.

(09.06.2004 entered into force 18.07.2004 - RT I 2004, 53, 366)

(3) A certificate shall be issued by the commission.

§ 23. Application for certificate

(1) The following persons may apply for a certificate:

- 1) natural persons with active legal capacity who reside permanently in Estonia;
- 2) legal persons registered in Estonia.

(2) In order to obtain a certificate, a standard format application and documents meeting the requirements shall be submitted to the commission.

(3) The format of applications for certificates shall be established by a regulation of the Minister of Foreign Affairs.

(4) The terms and procedure for the application for, issue and revocation of certificates and the list of documents and information to be submitted upon application for a certificate shall be established by a regulation of the Government of the Republic.

§ 24. Issue of certificate

(1) The commission shall make a decision concerning the issue of or refusal to issue a certificate.

(2) A certificate shall be issued for a specified or unspecified term but not for longer than the term of validity of the General Export Authorisation.

(3) The standard format and technical description of certificates and the list of data to be entered in a certificate shall be established by a regulation of the Minister of Foreign Affairs.

§ 25. Grounds for refusal to issue certificate

The commission shall refuse to issue a certificate, if:

- 1) false information or documents with elements of falsification were knowingly submitted upon application for the certificate;

- 2) within five years before the decision to issue the certificate, the applicant has violated legislation relating to the import, export and transit of strategic goods or a precept issued on the basis thereof;
- 3) within five years before the decision to issue the certificate, the applicant has violated an international sanction;
- 4) criminal proceedings have commenced concerning the applicant;
- 5) other good reasons exist.

§ 26. Revocation of certificate

- (1) A certificate shall be revoked if:
 - 1) new facts become evident which, had they been known or existed at the time of reviewing the application for a certificate, would have resulted in a refusal to issue a certificate;
 - 2) the holder of the certificate fails to comply with the conditions of the General Export Authorisation, licence or end-use control document issued to the holder of the certificate or legislation relating to the import, export and transit of strategic goods;
 - 3) the General Export Authorisation expires or is terminated;
 - 4) the certificate is destroyed or lost;
 - 5) the holder of the certificate who is a legal person is dissolved or the holder of the certificate who is a natural person dies.
- (2) If a certificate is destroyed or lost, the commission shall issue a new certificate on the basis of an application submitted by the person and the documents submitted upon application for the certificate which is destroyed or lost.
- (3) The commission shall immediately notify the Tax and Customs Boards of the revocation of a certificate. If a certificate was issued for the provision of services, the commission shall notify the Security Police Board of the revocation thereof.

§ 27. Return of certificate and reporting

- (1) A certificate shall be returned to the commission within ten calendar days after becoming aware of the revocation of the certificate or after expiry of the term of the certificate, unless the certificate is destroyed or lost.
- (2) Upon failure to return a certificate to the commission on time, the commission may impose a penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act. The upper limit of penalty payment is 10 000 kroons.
- (3) A person who has been issued a certificate is required to submit a report on the export of strategic goods and provision of services to the commission every three months. A report shall be submitted even if no goods were exported or services provided during the specified period of time. The commission has the right to request additional information from a holder of a General Export Authorisation if necessary.
- (4) The standard format of reports on strategic goods exported and services provided on the basis of a General Export Authorisation and the list of data to be entered in a report shall be established by a regulation of the Minister of Foreign Affairs.

§ 28. Obligation to preserve documents

A person who has been issued a certificate is required to preserve documents relating to the export of strategic goods and to services for at least ten years as of 1 January of the year following the preparation of the document. Documents which contain information specified in subsection 21 (2) of this Act shall be preserved.

Chapter 4

Ensuring Control over Import and End-Use of Strategic Goods

§ 29. Control over import and end-use of strategic goods

- (1) The commission guarantees control over the import and end-use of strategic goods with the end-use control documents specified in § 6 of this Act.
- (2) Control over the import and end-use of strategic goods is exercised by the Security Police Board, the Police Board and the Tax and Customs Board within the limits of their competence on the basis of end-use control documents. If the control offices discover any offences relating to strategic goods or violations of international sanctions, they shall notify the commission thereof immediately.
- (3) Control over the import and end-use of strategic goods may also be guaranteed for goods not included in the list of strategic goods specified in subsection 2 (7) of this Act, if the country of consignment of the goods so requests.

§ 30. End-use control documents

- (1) The following are end-use control documents:
 - 1) International Import Certificate which contains confirmation from the commission that the owner of the goods has undertaken to import the goods with the value and in the amount indicated into Estonia and not to re-export the goods without a corresponding licence;
 - 2) End-Use Certificate which contains confirmation from the end-user that the end-user 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 without the written permission of the commission or to re-export the goods without a corresponding licence, and confirmation from the commission that control of the use of the goods is ensured in Estonia;
 - 3) Delivery Verification Certificate which contains confirmation from the commission that the recipient of the goods has received the goods, with the value and in the amount indicated, in Estonia.
- (2) End-use control documents may, in addition to the confirmation specified in subsection (1) of this section, contain other terms and precepts of the commission in order to meet the requirements of the country of consignment of the goods.

§ 31. Application for end-use control document

- (1) In order to obtain an end-use control document, a standard format application and documents meeting the requirements shall be submitted to the commission. An application shall be signed by an applicant who is a natural person personally or by the legal representative of an applicant who is a legal person.
- (2) The format of applications for end-use control documents shall be established by a regulation of the Minister of Foreign Affairs.

(3) The terms and procedure for the application for, issue and revocation of end-use control documents and the list of documents and information to be submitted upon application for an end-use control document shall be established by a regulation of the Government of the Republic.

§ 32. Issue of end-use control document

- (1) The commission shall make a decision concerning the issue of or refusal to issue an end-use control document.
- (2) The standard format and technical description of end-use control documents and the list of data to be entered in a document shall be established by a regulation of the Minister of Foreign Affairs.

§ 33. Grounds for refusal to issue end-use control document

The commission may refuse to issue an end-use control document, if:

- 1) there is reason to believe that the goods may be unlawfully used, diverted from their original destination or re-exported from Estonia;
- 2) false information or documents with elements of falsification were knowingly submitted upon application for the end-use control document;
- 3) the import of strategic goods endangers or may endanger the interests or security of Estonia;
- 4) within five years before the decision to issue the end-use control document, the applicant has violated legislation relating to the import, export and transit of strategic goods or a precept issued on the basis thereof;
- 5) within five years before the decision to issue the end-use control document, the applicant has violated an international sanction;
- 6) misdemeanour or criminal proceedings have commenced concerning the applicant;
- 7) other good reasons exist.

§ 34. Revocation of end-use control document

- (1) The commission shall revoke an end-use control document by its decision if:
 - 1) new facts become evident which, had they been known or existed at the time of reviewing the application for the end-use control document, would have resulted in a refusal to issue the document;
 - 2) the holder of the end-use control document fails to comply with the conditions of the document or legislation relating to the import, export and transit of strategic goods;
 - 3) the end-use control document is destroyed or lost;
 - 4) the holder of the end-use control document who is a legal person is dissolved without legal succession or the holder of the end-use control document who is a natural person dies.
- (2) An end-use control document cannot be revoked if it has been submitted to the appropriate authorities of a foreign state and the goods have been even partly supplied

§ 35. Term of end-use control document and return of document to commission

- (1) The term of an end-use control document shall be six months. The document must be submitted to the appropriate authorities of a foreign state within that term.

(2) If an end-use control document is not submitted to the appropriate authorities of a foreign state within the term specified in subsection (1) of this section or the goods are not supplied, the document shall be returned to the commission together with a written explanation within ten calendar days as of the expiry of the term of validity of the document.

(3) Upon failure to return an end-use control document to the commission on time, the commission may impose a penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act. The upper limit of penalty payment is 10 000 kroons.

§ 36. Obligation to preserve documents

An end-user of strategic goods is required to preserve documents relating to the end-use of strategic goods for at least ten years as of 1 January of the year following the preparation of the document. Documents which contain information specified in subsection 21 (2) of this Act shall be preserved.

§ 37. Request of documents relating to import into foreign country and end-use of goods exported from Estonia

(1) Upon the review of an application for an Export Licence or Transit Permission, the commission may request that the applicant for the licence submit an International Import Certificate or End-Use Certificate issued by the appropriate authorities of the country of destination. The commission may apply for additional conditions to be guaranteed by the appropriate authorities of the country of destination.

(2) The commission may request that, after the export or transit of goods, a Delivery Verification Certificate issued by the appropriate authorities of the country of destination be submitted together with the returned licence.

Chapter 5 Brokering

§ 38. Broker

For the purposes of this Act, “broker” means a person engaged in brokering as specified in subsection 3 (2) of this Act who receives financial or other gains therefrom.

§ 39. Prerequisites for brokering

(1) A broker may engage in brokering after having been entered in the state register of brokers of military goods (hereinafter register).

(2) A person entered in the register only has the right to engage in the brokering of military goods indicated in the register entry. For each brokering transaction, an individual licence shall be applied for.

(3) A person need not be entered in the register if the person is already entered in a register intended for monitoring brokers in a country participating in all export control regimes. Such person shall apply for an individual licence for each brokering transaction.

§ 40. Application for entry in register

(1) In order to be entered in the register, a standard format application and documents meeting the requirements shall be submitted to the commission. An application shall be signed by an applicant who is a natural person personally or by the legal representative of an applicant who is a legal person.

(2) The format of applications for entry in the register shall be established by a regulation of the Minister of Foreign Affairs.

(3) The terms and procedure for the application for entry in the register, entry in the register, amendment of a register entry and deletion from the register and the list of documents and information to be submitted upon application for entry in the register shall be established by a regulation of the Government of the Republic.

§ 41. Entry in register and grounds for refusal to enter person in register

(1) The commission shall make a decision to enter a person in the register or refuse to enter a person in the register.

(2) The commission may refuse to enter a person in the register if:

1) false information or documents with elements of falsification were knowingly submitted upon application for entry in the register;

2) within five years before the decision to enter the person in the register, the applicant has violated legislation relating to the import, export and transit of strategic goods or a precept issued on the basis thereof;

3) within five years before the decision to enter the person in the register, the applicant has violated an international sanction;

4) criminal proceedings have commenced concerning the applicant;

5) other good reasons exist.

§ 42. Amendment of register entry

(1) In order to amend a register entry, a written application shall be submitted to the commission. The commission may request additional documents if necessary.

(2) The commission may refuse to amend a register entry on the grounds specified in clauses 41 (2) 1), 4) and 5) of this Act.

§ 43. Deletion from register

A broker shall be deleted from the register:

1) at the request of the person entered in the register;

2) if new facts become evident which, had they been known or existed at the time of reviewing the application for entry in the register, would have resulted in a refusal to enter the person in the register;

3) if the person entered in the register fails to comply with legislation relating to the import, export and transit of strategic goods;

4) if the person entered in the register violates an international sanction;

5) a legal person entered in the register is dissolved or a natural person entered in the register dies.

Chapter 6 **Notification Obligation**

§ 44. Notification of changes in facts and data

A person who has been issued a licence, certificate or end-use control document or who is entered in the register is required to notify the commission of any changes in the facts which were the basis for the issue of the said document or entry in the register or in the person's data in writing within five working days.

§ 45. Notification of destruction or loss of documents issued by commission

A person who has been issued a licence, certificate or end-use control document is required to notify the commission of the destruction or loss of the said document in writing within five working days.

§ 46. Notification of possible possession of strategic goods

If a holder of goods or provider of services related to goods is aware that the goods are or may be intended, in their entirety or in part, for use for military purposes or purposes endangering national security or in connection with the operation, handling, maintenance, storage, detection, identification or dissemination of weapons of mass destruction or the development, production, maintenance or storage of missiles capable of delivering such weapons or for the commission of human rights violations, the holder of the goods or service provider must notify the police authorities, security authorities or the commission immediately thereof.

Chapter 7 State Supervisory Control

§ 47. State supervisory control of import, export, transit and services

(1) Control over the import, export and transit of strategic goods shall be exercised by the Tax and Customs Board within the limits of competence granted thereto by the customs rules and this Act.

(09.06.2004 entered into force 18.07.2004 - RT I 2004, 53, 366)

(2) Control over services related to military goods shall be exercised by the Security Police Board.

(3) The Tax and Customs Board and the Security Police Board shall notify the commission immediately of any offences related to strategic goods which are discovered and violations of international sanctions.

(09.06.2004 entered into force 18.07.2004 - RT I 2004, 53, 366)

§ 48. Supervision over activities of commission and reporting

(1) Supervisory control over the activities of the commission shall be exercised by the Government of the Republic.

(2) The commission shall submit an activity report to the Government of the Republic at least once a year.

Chapter 8 Liability

§ 49. Violation of conditions of end-use control documents

(1) A violation of the conditions of end-use, diversion from original destination or re-export set out in an end-use control document is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 50. Violation of notification obligation

(1) Failure to comply with the notification obligations specified in §§ 44-46 of this Act is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 10 000 kroons.

§ 50¹. Failure to notify customs authorities

(1) Failure to comply with the obligation to notify the customs authorities specified in subsection 51 (1) of this Act is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

(09.06.2004 entered into force 18.07.2004 - RT I 2004, 53, 366)

§ 51. Failure to comply with time limits for preserving documents

(1) Failure to comply with the time limits prescribed in §§ 21, 28 and 36 of this Act for the preservation of documents is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 10 000 kroons.

§ 52. Procedure

(1) The provisions of the General Part of the Penal Code (RT I 2001, 61, 364; 2002, 86, 504; 82, 480; 105, 612; 2003, 4, 22; 83, 557; 90, 601; 2004, 7, 40) and of the Code of Misdemeanour Procedure (RT I 2002, 50, 313; 110, 654; 2003, 26, 156; 83, 557; 88, 590) apply to the misdemeanours provided for in this Chapter.

(09.06.2004 entered into force 18.07.2004 - RT I 2004, 53, 366)

(2) Extra-judicial proceedings concerning the misdemeanours provided for in this Chapter shall be conducted by the Security Police Board and the Tax and Customs Board.

(3) A body conducting extra-judicial proceedings concerning a misdemeanour or a court may, pursuant to § 83 of the Penal Code, apply confiscation of the substance or object which was the direct object of the commission of a misdemeanour provided for in § 49 of this Act.

Chapter 9 Implementing Provisions

§ 53. Validity of special authorisation issued

Licences and end-use control documents issued on the basis of legislation which was in force prior to the entry into force of this Act are valid until the end of their term or until their revocation. The provisions in force at the time of issue of the documents apply to the revocation and return of the documents.

§ 54. Amendment of Surveillance Act

The Surveillance Act (RT I 1994, 16, 290; 1995, 15, 173; 1996, 49, 955; 1997, 81, 1361; 93, 1557; 1998, 47, 698; 50, 753; 51, 756; 61, 981; 98/99, 1575; 101, 1663; 1999, 16, 271; 31, 425; 95, 845; 2000, 35, 222; 40, 251; 102, 671; 2001, 3, 9; 7, 17; 58, 353; 2002, 56, 350; 61, 375) is amended as follows:

1) clause 7) is added to subsection 9 (2) worded as follows:

«7) the issue of a licence or a General Export Authorisation User Certificate for the import, export or transit of strategic goods or provision of services related to military goods or entry of an undertaking in the state register of brokers of military goods pursuant to the procedure provided for in the Strategic Goods Act (RT I 2004, 2, 7).”;

2) subsection 9 (3) is amended and worded as follows:

«(3) The need to make a decision specified in subsection (2) of this section is deemed to be the reason for the commencement of a surveillance proceeding if the agency competent to make the decision finds that the background or reliability of the applicant or information submitted by the applicant raise reasonable doubt, and if the alternative possibilities for verification thereof are exhausted.”

§ 55. Amendment of Defence Forces Service Act

In clause 62 4) of the Defence Forces Service Act (RT I 2003, 28, 167; 2000, 31, 195), the number “10” is substituted by the number “9”.

§ 56. Amendment of Explosive Substances Act

In subsection 19 (1) of the Explosive Substances Act (RT I 1997, 86, 1461; 2001, 65, 377; 85, 510; 88, 531; 2002, 47, 297; 53, 336; 61, 375; 63, 387; 2003, 20, 116), the words “Strategic Goods Import, Export and Transit Act (RT I 1999, 57, 597)” are substituted by the words “Strategic Goods Act (RT I 2004, 2, 7)”.

§ 57. Amendment of Taxation Act

Clause 25) is added to § 29 of the Taxation Act (RT I 2002, 26, 150; 57, 358; 63, 387; 99, 581; 110, 660; 111, 662; 2003, 2, 17; 48, 341; 71, 472) worded as follows:

«25) to the Strategic Goods Commission for the performance of the functions provided for in the Strategic Goods Act (RT I 2004, 2, 7).”

§ 58. Amendment of International Sanctions Act

In subsection 3 (3) of the International Sanctions Act (RT I 2002, 105, 612), the words “Strategic Goods Import, Export and Transit Act (RT I 1999, 57, 597)” are substituted by the words “Strategic Goods Act (RT I 2004, 2, 7)” and the words “Strategic Goods Import, Export and Transit Control Commission” are substituted by the words “Strategic Goods Commission”.

§ 59. Amendment of Weapons Act

In subsection 59 (2) of the Weapons Act (RT I 2001, 65, 377; 88, 531; 102, 673; 2002, 29, 175; 53, 336; 61, 375; 63, 387; 110, 653; 2003, 66, 449), the words “Strategic Goods Import, Export and Transit Act (RT I 1999, 57, 597)” are substituted by the words “Strategic Goods Act (RT I 2004, 2, 7)” and, in subsection 60 (6), the words “Strategic Goods Import, Export and Transit Act” are substituted by the words “Strategic Goods Act”.

§ 60. Amendment of State Fees Act

The State Fees Act (RT I 1997, 80, 1344; 2001, 55, 331; 53, 310; 56, 332; 64, 367; 65, 377; 85, 512; 88, 531; 91, 543; 93, 565; 2002, 1, 1; 18, 97; 23, 131; 24, 135; 27, 151 and 153; 30, 178; 35, 214; 44, 281; 47, 297; 51, 316; 57, 358; 58, 361; 61, 375; 62, 377; 90, 519; 102, 599; 105, 610; 2003, 4, 20; 13, 68; 15, 84 and 85; 20, 118; 21, 128; 23, 146; 25, 153 and 154; 26, 156 and 160; 30, correction notice; 51, 352; 66, 449; 68, 461; 71, 471) is amended as follows:

- 1) clause 16²) is added to subsection 3 (2) worded as follows:
«16²) acts performed on the basis of the Strategic Goods Act;»;
- 2) Division 9² is added to Chapter 7 of the Act worded as follows:
“Division 9²
Acts performed on basis of Strategic Goods Act

§ 105². Issue and renewal of Individual Import Licence, Export Licence and Transit Permission

- (1) A state fee of 200 kroons shall be paid for the issue of an Individual Import Licence, Export Licence or a Transit Permission.
- (2) A state fee of 100 kroons shall be paid for the renewal of an Individual Import Licence, Export Licence or a Transit Permission.

§ 105³. Issue of General Export Authorisation User Certificate

A state fee of 200 kroons shall be paid for the issue of a General Export Authorisation User Certificate.

§ 105⁴. Issue of control documents for import and end-use of strategic goods

A state fee of 200 kroons shall be paid for the issue of a control document for the import and end-use of strategic goods.

§ 105⁵. Entry in state register of brokers of military goods

- (1) A state fee of 1000 kroons shall be paid for entry in the state register of brokers of military goods.
- (2) A state fee of 500 kroons shall be paid for the amendment of an entry in the state register of brokers of military goods.

§ 61. Amendment of State Secrets Act

Clause 20 is added to § 5 of the State Secrets Act (RT I 1999, 16, 271; 82, 752; 2001, 7, 17; 93, 565; 100, 643; 2002, 53, 336; 57, 354; 63, 387; 2003, 13, 67; 23, 147) worded as follows:

«20) information about the import, export and transit of strategic goods, the export of services related to military goods and end-use of strategic goods collected or prepared by the Strategic Goods Commission operating at the Ministry of Foreign Affairs, except information the disclosure of which would not damage international relations or national security. A medium containing such information shall be classified for thirty years.»

§ 62. Repeal of Strategic Goods Import, Export and Transit Act

(1) The Strategic Goods Import, Export and Transit Act (RT I 1999, 57, 597; 2001, 88, 531; 2002, 61, 375; 63, 387; 105, 612) is repealed.

(2) Legislation issued on the basis of the Act specified in subsection (1) of this section are valid in so far as they are not contrary to this Act, until repeal thereof.

§ 63. Entry into force of Act

(1) This Act enters into force on the thirtieth day following the date of publication of this Act in the *Riigi Teataja*.

(2) Section 55 of this Act enters into force on the day following publication in the *Riigi Teataja*.

¹ Council Joint Action 2000/0401/CFSP (OJ L 159, 30.06.2000, p. 216); Council Common Position 2003/468/CFSP (OJ L 156, 25.06.2003, p. 79). (09.06.2004 jõust. 18.07.2004 - RT I 2004, 53, 366)

² RT = *Riigi Teataja* = *State Gazette*