

**A C T No. 21/1997 Coll.
of 24. 1. 1997**

**On Control of Exports and Imports of Goods and Technologies
Subject to International Control Regimes**

The Czech Parliament has passed the following Act:

**PART ONE
General Provisions**

§ 1

Subject Matter

(1) This Act stipulates conditions under which it is possible to export from or import to the Czech Republic goods and technologies subject to international control regimes ("control regime"), and defines the authority of state administration bodies in this area.

(2) The state administration bodies responsible for the application the control regime pursuant to this Act, shall be obliged to take into account the objectives of international institutions involved in the area of multilateral control of strategic goods and in the area of nonproliferation of nuclear, chemical, and biological weapons, a member of which the Czech Republic is or which the Government of the Czech Republic recognizes, while at the same time respecting the foreign policy, security and trade interests of the state in this area.

Definition of Basic Terms

§ 2

(1) The following shall be subject to the control regime hereunder:

- a) assemblies, equipment, products including their parts, materials, software, chemical and biological compounds and viruses, precursors,
- b) technologies defined for the purposes hereof as information and production and technical knowledge in tangible form or stored on media for electronic data transfer, models, prototypes, technical drawings and charts, heliotyped materials and manuals or, in tangible form training or technical kits that might be used for preparing technical drawings necessary for manufacturing, use, or re-processing of goods, including the relevant software and technical data, but not the goods themselves,

that - owing to their possible dual use - may serve for civilian or military purposes ("controlled goods").

(2) For the purposes of export and import controlled goods shall include toxic substances, precursors of chemical weapons, and nuclear materials, equipment and technologies, the handling of which in the Czech Republic is governed by a specific law.^{1 2 3 4}

¹ Act No. 287/1993 Coll., On Authority of the State Office for Nuclear Safety, as amended by Act No. 85/1995 Coll.

² Decree of the Czechoslovak Atomic Energy Commission No. 28/1977 Coll., On Recording and Controlling Nuclear Materials, as amended by Decree of the Czechoslovak Atomic Energy Commission No. 100/1989 Coll.

(3) The controlled goods referred to in sections 1 and 2 above are listed in an implementing regulation.

§ 3

(1) Controlled goods may be exported from or imported to the Czech Republic by a natural person with long-term or permanent domicile in the territory of the Czech Republic⁵, or a legal person that has its seat in the territory of the Czech Republic, or a foreign legal person provided it is the exporter or importer (hereinafter "importer" and "exporter").

(2) For the purposes hereof import means release of the controlled goods into the customs regime of free circulation or into any of the regimes with economic effect, while export means release of the controlled goods into the export regime or the regime of passive refining contact or, finally, assignment of a customs-approved licence for re-import, on the basis of a decision issued by the customs authorities in proceedings governed by specific regulations.⁶

§ 4

General Obligations of Exporters, Importers, and Users

- (1) Exporters of controlled goods shall be obliged to:
- a) arrange for the issuance of a certificate of end use for the controlled goods and for compliance with potential conditions specified in the export licence,
 - b) upon request by the Ministry of Industry and Trade ("Ministry") submit, after conclusion of the export transaction, a delivery verification document evidencing the delivery of the controlled goods in the approved country of destination, issued by the relevant authority of that country,
 - c) for at least five years from the end of the calendar year in which the controlled goods were exported keep records containing the fundamental data necessary for identification of the goods:
 1. name and identification code of the goods according to the list of controlled goods,
 2. amount and value of the goods,
 3. licence identification,
 4. date of sale,
 5. name and address of both the foreign party to the contract and the end user,
 6. purpose of using the goods, including the relevant documents (contracts, guarantee of use, invoices, transportation and other commercial documents),

³ Act No. 19/1997, On Some Measures Connected with the Ban on Chemical Weapons and Supplement to the Federal Assembly Act No. 50/1976, On Zone Planning and the Building Code (the Building Act), as amended; the Czech National Council Trade Licensing Act No. 455/1991 Coll., as amended; and the National Assembly Act No. 140/1961 (The Penal Code), as amended.

⁴ Act No 18/1997 Coll., On Peaceful Use of Nuclear Energy and Ionising Radiation (Atomic Act).

⁵ Act No. 135/1982 Coll., On Reporting and Recording Residence of Citizens.

Act No. 123/1992 Coll., On Stay of Foreigners on the Territory of the Czech and Slovak Federative Republic, as amended.

⁶ The Czech National Council Act No. 13/1993 Coll., Customs Act, as amended by the Czech National Council Act No. 35/1993 Coll.

- d) upon export of controlled goods previously imported comply with the terms and conditions stipulated in the export licence issued by the foreign supplier,
 - e) provide the necessary co-operation in connection with the controlling activities referred to in §§ 20 to 22.
- (2) Importers of controlled goods shall be obliged
- a) for the period of at least three years since the controlled goods were imported, and in the case of ownership rights to controlled goods for three years of this ownership duration, and for the period of at least three years since this ownership transfer to another user, keep records of the controlled goods containing the fundamental data necessary for their identification:
 - 1. name and identification code of the goods according to the list of controlled goods,
 - 2. amount and value of the goods,
 - 3. licence identification,
 - 4. location of the goods,
 - 5. upon subsequent sale the name and address of the new user and the date of sale,
 - 6. purpose of using the goods, including the relevant documents (contracts, guarantee of use, documents of potential production consumption, invoices, transportation and other commercial documents),
 - b) upon a change in the user of the controlled goods inside the Czech Republic inform the new user in writing about the fact that controlled goods are involved, about the conditions imposed by the primary manufacturer, the terms and conditions stipulated in the import licence, and the obligation to comply with the conditions of specific regulations applicable to individual types of goods; the new user shall be obliged to keep records of the controlled goods to the extent stipulated under a) above and agree with the periodic checks pursuant to the provisions of § 21,
 - c) provide the necessary co-operation in connection with the controlling activities referred to in §§ 20 to 22,
 - d) ensure that a border customs authority is informed not later than at the moment the goods cross the state border that controlled goods are involved.
- (3) Users of controlled goods shall be obliged to use the controlled goods only for purposes stipulated in the relevant licence and observe the terms and conditions stipulated therein as well as the conditions imposed on the foreign exporter in the export licence, and fulfil the obligations of an importer as specified in section 2 sub a) to c).

PART TWO

Licensing Proceedings

§ 5

An exporter is entitled to export and an importer is entitled to import controlled goods only on the basis, to the extent, and under the terms and conditions specified in the export or import licence granted by the Ministry ("licence") as an individual licence, an individual open licence, or a general licence.

Individual Licence

§ 6

(1) An individual licence is a written decision made by the Ministry on the prescribed form under the provisions of § 7 section 2 that authorises the exporter or the importer to export/import the specified type of controlled goods in the specified amount on the basis of an arrangement between the exporter/importer and its foreign business partner.

(2) The exporter/importer shall submit a written application for granting an individual licence, having first received a written expression of the foreign partner's intent to conclude a contract of sale specifying the concrete type and concrete amount of the controlled goods. A specific application for an individual licence shall be filed for each contract referring to export or import of controlled goods.

(3) The application for granting an individual licence shall contain the following:

- a) name and seat of the exporter/importer, potentially the name and place of business,
- b) identification number of the exporter/importer or, if a natural person, his/her citizen's card-index number and his/her permanent or long-term domicile in the Czech Republic,⁵
- c) name and seat, or name and place of business, of the foreign party to the contract, potentially of the local party to the contract,
- d) sub-item of the customs tariff book combined nomenclature,
- e) name of the goods according to commercial documents and their code according to the list of controlled goods, the amount of the goods, their price, and manufacturer's designation,
- f) the country to which/from which the controlled goods are to be exported/imported,
- g) the purpose for which the goods are to be used,
- h) the name and seat or the long-term or permanent domicile of the end user,
- i) the proposed term of the individual licence requested.

(4) The following shall be attached to each application for an individual licence:

- a) a draft or executed contract between the exporter/importer and the corresponding foreign partner containing an exact specification of the controlled goods including their amount,
- b) upon export, either an import licence granted by the relevant authority of the country of destination, or a declaration of the foreign user that the goods shall not be used for manufacture or development of nuclear, chemical, or biological weapons, that the goods shall be used exclusively for the stated purpose, and shall not be re-exported without the consent of the exporter's country; upon import an analogous declaration containing a written covenant of the user that the specified goods shall be used for the stated purpose,
- c) in the event of controlled nuclear goods an approval granted by the State Office for Nuclear Safety under a specific law,⁴
- d) upon request of the Ministry additional documents necessary for due assessment of the transaction at hand.

(5) The form of applications for individual licences is stipulated by an implementation regulation.

§ 7

(1) The Ministry shall decide on applications for individual licences.

(2) Each decision on granting an individual licence for importing/exporting controlled goods shall contain the following:

- a) name, seat, and identification number, or name and place of business, of the exporter/importer, if a natural person his/her citizen's car-index number and his/her long-term or permanent domicile in the Czech Republic,⁵
- b) sub-item of the customs tariff book combined nomenclature,
- c) name of the goods and its code according to the list of controlled goods, the amount of the goods and their price,
- d) name and seat, or name and place of business, of the foreign party to the contract, and name and seat of the end user of the goods,
- e) term of the individual licence,
- f) potentially other conditions imposed by the individual licence ensuing from obligations by which the Czech Republic is bound,
- g) date, seal, and signature of an authorised official of the Ministry.

(3) In the decision the Ministry shall reserve space for records of the customs authorities⁷ concerning the use of the individual licence.

§ 8

(1) Unless stipulated otherwise in the individual licence the exporter/importer shall notify the Ministry of the amount of each realised delivery after its completion not later than within two weeks after the expiration of the individual licence.

(2) In the event an individual licence has not been made use of, the exporter/importer shall notify the Ministry of this fact without delay and return the granted licence.

§ 9

The Ministry shall refuse to grant an individual licence:

- a) if the exporter/importer fails to meet the conditions stipulated in § 6, or
- b) if the exporter/importer violates the conditions of the controlled regime or, in connection therewith violates the domestic or foreign legal regulation applicable to this area, or
- c) if the exporter/importer fails to fulfil the obligation to request a prior consent with negotiations referred to in § 15 section 3 hereof, or
- d) for reasons connected with foreign policy, trade, or security interests of the Czech Republic, or
- e) the conditions stipulated in a specific law have not been met.^{3 4}

§ 10

(1) The Ministry shall revoke a granted individual licence:

- a) if the licence was granted on the basis of false or incomplete data, or
- b) for reasons connected with foreign policy, trade, or security interests of the Czech Republic, or
- c) upon violation of the terms and conditions of the granted licence,

⁷ § 11 of the Czech National Council Act No. 13/1993 Coll.

⁸ § 248 Act No. 99/1963 Coll., Civil Legal Code, as amended .

⁹ E.g., the Federal Assembly Act No. 28/19984 Coll., On State Supervision of Nuclear Safety; the Decree of the Czechoslovak Nuclear Energy Commission No. 100/1989 Coll., On Protection of Nuclear Plants and Nuclear Materials.

provided the controlled goods have not yet been released into the customs regime or cleared for re-export.

§ 11

No remonstrance may be filed against the decision of the Ministry to grant, refuse, or revoke an individual licence. This does not affect the right of a judicial inspection of the administrative decision⁸⁾.

Individual Open Licence

§ 12

(1) An individual open licence is a written decision by the Ministry on a prescribed form pursuant to the provisions of § 13 section 1 that authorises a concrete exporter or importer to export or import controlled goods of identical character in the form of recurring shipments.

(2) The Ministry may grant an individual open licence in the event of expected recurring exports/imports of controlled goods of a given structure and territorial scope within a certain time period (usually a calendar year) on the basis of a written application filed by the exporter/importer.

(3) The application for an individual open licence shall contain:

- a) name and seat, or name and place of business of the exporter/importer,
- b) identification number of the exporter/importer; if a natural person his/her social security number and his/her long-term or permanent domicile in the Czech Republic,⁵
- c) sub-items of the customs tariff book combined nomenclature,
- d) name of the goods and their code according to the list of controlled goods, the amount of the goods and their price,
- e) countries into which/from which the controlled goods are to be exported/imported,
- f) the expected use of the goods,
- g) the name and seat, or long-term or permanent domicile of the end users, if known as of the date of the application,
- h) the proposed term of the individual open licence.

(4) The application for an individual open licence shall enclose the following:

- a) a list of foreign trade partners,
- b) commercial documents evidencing the expected supplies of controlled goods for which the individual open licence is requested, if already agreed upon between the domestic exporter/importer and its foreign business partner,
- c) a licence granted under a specific law⁴ by the State Office for Nuclear Safety, if controlled nuclear goods are to be exported/imported,
- d) upon request of the Ministry also additional documents necessary for due assessment of the transaction at hand.

(5) The form of applications for individual licences is stipulated by an implementation regulation.

§ 13

(1) The decision granting an individual open licence for export or import of controlled goods shall contain the following:

- a) name, seat, and identification number, or name and place of business, of the exporter/importer; if a natural person his/her citizen's social security number and his/her long-term or permanent domicile in the Czech Republic,⁵
- b) sub-item of the customs tariff book combined nomenclature,
- c) name of the goods and their code according to the list of controlled goods, the amount of the goods and their price,
- d) the countries to/from which the exporter/importer is authorised to export/import the controlled goods,

- e) term of the individual open licence and the mandatory dates for submitting interim reports of realisation,
- f) any other additional conditions under which the specified controlled goods may be exported/imported,
- g) date, seal, and signature of an authorised official of the Ministry.

(2) In its decision the Ministry shall reserve space for records of the customs authorities⁷ concerning the use of the individual open licence granted.

§ 14

(1) An individual open licence already granted may be revoked subject to the conditions stipulated in § 10.

(2) No remonstrance may be filed against the decision of the Ministry to grant or revoke an individual open licence. This does not affect the right of a judicial inspection of the administrative decision.⁸

§ 15

Preliminary Consent with Negotiations

(1) Prior to filing an application for an individual licence the exporter/importer may submit to the Ministry a written request for granting a preliminary consent with negotiations with a foreign partner. The request shall contain the expected data as referred to in § 6 section 3.

(2) The Ministry shall decide on the request within 30 days after its filing. The preliminary consent already granted may be modified following a change in the conditions under which it has been granted. The preliminary consent shall not replace an individual licence.

(3) Instances of export/import of controlled nuclear, chemical and biological goods especially important for the state's interests, in which an exporter/importer shall be obliged to request a preliminary consent of the Ministry with negotiations with a foreign partner are defined in an implementation regulation.

(4) Criteria decisive for classifying controlled goods as especially important pursuant to the provisions of the preceding section 3 include:

- a) the specified amount of controlled goods exported under a single contract in view of the specific type of controlled goods,
- b) the technical and utility characteristics of the controlled goods that increase the risk of them being used in manufacture and proliferation of weapons of mass destruction,
- c) sensitivity of the expected site of end use of the controlled goods exported from the Czech Republic from the point of view of either foreign policy or specific conditions imposed by the relevant international control regime,
- d) a combination of the conditions under a) to c) above.

General Licence

§ 16

(1) A general licence authorises importers/exporters not identified in advance to import/export controlled goods under strictly defined conditions without the necessity to file

an application with the Ministry. No general licences shall be granted for export or import of nuclear controlled goods.

(2) By a Decree the Ministry may grant a general import or export licence delimiting:

- a) the structure of the goods,
- b) the range of countries covered by the general licence,
- c) conditions under which controlled goods may be exported or imported under a general licence.

(3) When export or import proceeds under a general licence no individual or individual open licence shall be submitted to the customs authorities; instead, the number of the Decree granting the relevant general licence is filled in in the customs declaration.

§ 17

(1) An exporter/importer who intends to export/import controlled goods under a granted general licence shall be obliged:

- a) prior to using the general licence for the first time to file with the Ministry a registration form stating its business name, seat, or name, domicile and identification number, and enclose a trade licence or (if incorporated) a copy of its registration in the Companies' Register,
- b) notify the Ministry of changes in the data contained in the registration form or termination of supplies of controlled goods exported/imported under a general licence.

(2) The registration effected under the preceding provisions shall apply to all general licences granted.

§ 18

Having established that an exporter/importer has violated any of the terms and conditions of a general licence the Ministry may disqualify such exporter/importer from using the general licences. The Ministry shall send a copy of such decision to the Ministry of Finance.

§ 19

Licensing Proceedings in Some Special Instances

(1) A legal or natural person referred to in § 3 section 1 shall be obliged to apply for an individual licence also for export of goods not included in the list of controlled goods issued under the provisions of § 2 section 2, provided that

- a) the person has been informed by a relevant state authority that the goods are or may be intended, in their entirety or in part, to be used in connection with development, manufacture, disposal, operation, maintenance, storage, detection, or proliferation of chemical, biological, or nuclear weapons, or with development, maintenance, or storage of guided missiles capable of carrying such weapons, or
- b) the person is aware that the goods are intended, in their entirety or in part, to be used in connection with the activities listed under clause a) above.

(2) The obligation to apply for an individual export licence pursuant to the provisions of section 1 above shall relate to a person stipulated therein also if such person has a reason to suspect that the goods may be used, in their entirety or in part, in connection with activities listed in section 1 sub a); such person shall be exonerated from the above obligation if he

adopts measures aimed at establishing the actual use of the exported goods and satisfies himself that there is no danger of them being misused.

(3) The licensing proceedings pursuant to the above sections 1 and 2 shall be subject to the provisions of §§ 6 through 11.

PART THREE
**Checking Compliance with the Terms and Conditions of the Control Regime
and Penalties**

§ 20

Prior to deciding on a licence the customs authority⁷ and, if nuclear controlled goods are involved, the State Office for Nuclear Safety, either on its own account or upon an invitation received from the Ministry, shall effect a preliminary check aimed at verifying the data stated in the application as well as the purpose and suitable conditions of use of the imported controlled goods referred to in the application for an individual or individual open licence.

§ 21

The authorities referred to in § 20 shall carry out periodic checks at the site where the controlled goods are situated, aimed at establishing compliance with the terms and conditions of the granted licence as well as the general conditions stipulated in § 4. The authorities shall also check the imported and exported goods not included in the list of controlled goods, if in possession of information that the goods may be used for purposes referred to in § 19 section 1 sub a). Such check shall be also effected upon request received from the Ministry or a relevant state authority of the supplier's country. The results of such checks shall be communicated to the Ministry.

§ 22

(1) The authorities referred to in § 20 shall be authorised, under conditions stipulated in specific regulations,⁹⁾ to carry out preliminary and periodic checks of controlled goods, enter the premises and locations where the controlled goods are situated or should be situated according to the relevant documentation, examine documents referring to, and make records of, the controlled goods.

(2) If a relevant state authority of the supplier's country requests participation in a preliminary or periodic check, the authorities specified in § 20 shall grant the request taking into account the specific conditions ensuing from other legal regulations⁹⁾.

§ 23

In support of the checking activities the Ministry of Finance shall keep records of imported controlled goods, and the customs authorities shall keep records within their jurisdiction and communicate to the Ministry the necessary information about effected imports or exports of controlled goods.

Penalties

§ 24

(1) Should an exporter, an importer or any other entity transport controlled goods from the customs territory of the Czech Republic abroad, or from abroad to the customs territory of the Czech Republic without a valid licence although a licence is required hereunder, the following penalties shall be inflicted:

- a) a fine of up to 20 million CEK or five times the value of the goods whichever is higher, or
- b) forfeiture of the controlled goods.

The sanctions under a) and b) above may be inflicted separately or concurrently.

(2) Should an exporter, importer, or user of imported controlled goods other than nuclear controlled goods fail to comply with the obligations under § 4, a fine of up to 5 million Kč may be inflicted.

(3) In determining the amount of fines inflicted under section 1 and 2 the extent, significance, and duration of the threat to the foreign policy, trade, or security interests of the Czech Republic shall be considered along with the damage caused by the illegal activity involved. Sanctions applicable under specific regulations shall not be affected.¹⁰

§ 25

(1) The customs authority of jurisdiction under the Customs Act shall inflict the fine and/or forfeit of controlled goods under § 24 by a decision. In deciding on forfeiture of controlled goods the provisions of § 300 of the Customs Act shall be used *mutatis mutandis*. The customs authority that inflicted the sanction shall also enforce and collect it.

(2) The fine may be inflicted and the goods forfeited within two years after the date on which the violation has been established by a protocol of a check, but not later than within ten years following the actual date of the violation. An appeal against the decision issued under section 1 above shall have a suspensory effect.

(3) An inflicted fine shall be due and payable within 15 days after the effective date of the relevant decision, and shall be income of the state budget.

(4) Validly forfeited goods shall be usually sold by the customs authority in an auction; the net revenue shall be income of the state budget. When pursuing this procedure, the customs authority acts consistently with the stipulation of § 4, para 2, letter b). A procedure under a specific law⁴ shall apply to nuclear controlled goods.

PART FOUR

Common, Transitory, and Final Provisions

§ 26

Prior to the import of controlled goods the Ministry shall grant to the importer, upon request of the foreign supplier involved, an import certificate together with an individual licence or individual open licence. The import certificate shall contain data identical to those contained in the import licence.

§ 27

Once import is effected the customs authority, upon request received from the foreign supplier, shall certify to the importer the document evidencing delivery. In the event discrepancies are subsequently discovered concerning the imported controlled goods the customs authority shall inform, through the Ministry, the relevant state authority of the exporter's country.

§ 28

(1) The proceedings under this Act shall be governed by the Administrative Act with the exceptions:

- a) stipulated in § 11 a § 14 section 2 with regard to appeals, in § 15 section 2 with regard to the term required for granting a preliminary consent with negotiations, and in § 25 section 1 with regard to jurisdiction of the customs authorities inflicting sanctions,

¹⁰ E.g., the Czech National Council Act No. 13/1993 Coll. as amended by the Czech National Council Act No. 35/1993 Coll.

- b) the person referred to in § 3 section 1 and, if proceedings under Part Three hereof are involved, also the user of the controlled goods as well as other persons stipulated in § 24 section shall be the participants of the administration proceedings
- c) the opinion of the relevant state authorities concerning possible foreign policy or security interests of the state resulting in the procedures referred to in § 9 sub d) and § 10 section 1 sub b) hereof shall be exempt from the right of participants to examine documents, make excerpts and offer comments;¹¹ the administration body, in justifying its decision, shall be however obliged to state the opinion on which the decision is based.

§ 29

(1) In order to implement this Act the Ministry may demand from state administration bodies their opinion on individual instances of export or import of controlled goods with regard to the foreign policy and security interests of the state as well as information about participants involved in export and import of controlled goods or about importers and exporters applying for a licence, and the subject of their business if related to the controlled goods. The relevant state administration bodies shall express their opinion, unless prevented from doing so by specific legal regulations,¹² within 30 days or within a period adequately extended after consultations with the Ministry.

(2) In matters governed by this Act the Ministry shall be entitled to co-operate with the international institutions specified in § 1 section 2, and provide such information as required from the Czech Republic on the basis of its membership in these institutions. The Ministry may also co-operate with state administration bodies of other countries responsible for fulfilling the tasks connected with the national control regime in the area of controlled goods.

§ 30

Decisions issued hereunder shall not replace decisions issued under specific regulations.^{1 2 3 4}

§ 31

(1) Valid licences for export and import of controlled goods, granted under existing regulations, shall be deemed licences granted hereunder. In connection with controlled goods imported under existing regulations, in the event a change of the user has taken place, the previous user, instead of being obliged to apply for an approval to dispose differently of the controlled goods, shall be now obliged to inform the new user that controlled goods are involved; the obligation of the customs authorities to keep records of the movement of controlled goods on the territory of the Czech Republic is cancelled.

(2) The licensing proceedings initiated prior to the effective date hereof shall be concluded by issuing decisions under the existing regulations.

§ 32

The Ministry shall issue a Decree implementing the provisions of § 2 section 3, § 6 section 5, § 12 section 5, and § 15 section 3 hereof.

§ 33

The following are hereby repealed:

1. Act No. 547/1990 Coll., On Dealing with Certain Kinds of Goods and Technologies and Control Thereof..
2. The Decree of the Federal Ministry of Foreign Trade No. 50/1992 Coll., implementing Act No. 547/1990 Coll., On Dealing with Certain Kinds of Goods and Technologies and Control Thereof, as amended by Decrees of the Federal Ministry of Foreign Trade No. 505/1992 Coll., by Decrees of the Ministry of Industry and Trade No. 22/1994 Coll., and by Decrees of the Ministry of Industry and Trade No. 234/1994 Coll.

§ 34

This Act shall enter into force on the date it is published.

Signed: Zeman
Havel
Klaus

Schedule No. 1 to Decree No. 44/1997 Coll.

List of controlled goods that may be imported on the basis of the general licence, designated in Schedule No. 1 of Decree No. 44/1997 Coll. of the Ministry of Industry and Trade by the following codes:

1A001	except for 2B001a,b,c,d	6A102
1A003	2B002	6A107
1A004	2B003	6A108
1A005	2B005	6B004
1A102	2B006	6B007
1B001	except for 2B006a,b,	6B008
except for 1B001a	2B007	6B108
1B002	except for 2B007b,c	6C002
1B003	2B008	6C004
1B101	2D002	6C005
except for 1B101a	except for 2D002a	6D001
1B115	2D101	6D002
1B116	2E003	6D003
1C001	3A001	6D102
1C002	except for 3A001e2,3	6D103
except for 1C002a2c,d	3A002	6E003
1C003	3A101	6E101
1C004	3B001	
1C005	3B002	
1C006	3C001	
1C007	3C002	
1C008	3C003	
1C009	3C004	
1C010	3D001	
except for 1C010a,b,e	3D002	
1C011	3D003	
1C012	3D101	
1C101	3E002	
1C107	3E101	
1C111	3E102	
1C117	6A001	
1D002	6A002	
1D101	6A004	
1D103	6A005	
1E002	except for 6A005a1c,6A005a2a	
1E101	6A005c1b,6A005c2b2	
1E103	6A005c2c2	
1E104	6A006	
2A001	6A007	
2B001	6A008	

and all items whose designations begin in either of the following digits: 4, 5, 7, 8, or 9.

Schedule No. 2 to Decree No. 44/1997 Coll.

Declaration of Importer
Pursuant to § 1 of Decree No. 44/1997 Coll. of the Ministry of Industry and Trade,
Granting a General Licence for Import of Controlled Goods

I, the undersigned, hereby represent that the following imported controlled goods:

Name:

Amount:

Value:

Code according to
the List of Controlled Goods:

- a) is being imported for exclusive use in the territory of the Czech Republic, and
- b) shall not be employed for the production, development, stockpiling or use of nuclear, chemical, or biological weapons.

Importer (typewritten name and position):

Date:

Signature and seal:

DECREE

of the Ministry of Industry and Trade

dated 21 February 1997,

Implementing Act No. 21/1997 Coll.,

'On Control of Exports and Imports of Goods and Technologies Subject to International Control Regimes'

The Ministry of Industry and Trade ("Ministry"), pursuant to § 22 of Act No. 21/1997 Coll., 'On Control of Exports and Imports of Goods and Technologies Subject to International Control Regimes' ("Act"), hereby provides as follows:

§ 1

Controlled goods under § 2 section 3 of the Act comprise:

- a) new and used goods listed in Schedule No. 1 hereto, including goods that form a removable part of a whole that is not otherwise subject to control regimes;
- b) technologies listed in Schedule No. 1 hereto in categories 1 through 9, even though they can apply to goods not subject to control regimes.

§ 2

Forms of applications that request granting individual licences for exporting controlled goods pursuant to § 6 section 5 of the Act are in Schedule No. 2A hereto, those required to import controlled goods in Schedule No. 2B hereto.

§ 3

Forms of applications that request granting open individual licences for exporting controlled goods pursuant to § 12 section 5 of the Act are in Schedule No. 3A hereto, those required for importing controlled goods in Schedule No. 3B hereto.

§ 4

Instances in which an exporter of controlled goods is obliged, pursuant to the provisions of § 15 section 3 of the Act, to ask the Ministry for a prior approval to negotiations with a foreign partner before contract execution are specified in Schedule No. 4 hereto.

§ 5

This Decree becomes effective on the promulgation date.

Minister:

Ing. Dlouhý CSc., in his own hand

List of Instances
in which prior consent to negotiations is mandatory

- a) Nuclear materials and equipment - export
- 0A001*) Nuclear reactors and parts specifically designed or prepared for use in connection with nuclear reactors
 - 0C001*) Natural or depleted uranium and thorium
 - 0C002*) Special fission materials and other fission materials
 - 0C004*) Deuterium and heavy water
 - 0C005*) Graphite of nuclear purity

Prior consent is not necessary to negotiations concerning export of items listed sub a) above carried out with the following countries:

Argentina, Australia, Belgium, Brazil, Great Britain, Bulgaria, Denmark, Finland, France, Ireland, Italy, Japan, South Africa, Canada, the Republic of Korea, Luxembourg, Hungary, the Netherlands, Norway, New Zealand, Poland, Portugal, Austria, Romania, Russia, Greece, Slovakia, the USA, Federal Republic of Germany, Spain, Sweden, Switzerland, Ukraine.

- b) Chemical and biological items - export
- 1C350 Sodium cyanide in excess of 500 tonnes
 - 1C350 Hydrogen fluoride in excess of 300 tonnes
 - 2B350*) Equipment and accessories for chemical production
 - 2B351*) Systems for monitoring toxic gases including the corresponding detectors
 - 2B352*) Biotechnological equipment

Prior consent is not necessary to negotiations concerning export of items listed sub b) above carried out with the following countries:

Argentina, Australia, Belgium, Great Britain, Denmark, Finland, France, Ireland, Iceland, Italy, Japan, Canada, the Republic of Korea, Luxembourg, Hungary, the Netherlands, Norway, New Zealand, Poland, Portugal, Austria, Romania, Greece, Slovakia, the USA, Federal Republic of Germany, Spain, Sweden, Switzerland.

- c) Chemicals under the Convention on the Prohibition of Chemical Weapons - export
- II/1*) Highly dangerous compounds
- d) Export into Iraq of all items from the list of controlled goods, Parts I., II., and III.

*) Detailed specifications of individual items are in Parts I and II of the List of Controlled Goods.

DECREE
of the Ministry of Industry and Trade
dated 21 February 1997
Granting a General Licence for Import of Controlled Goods

The Ministry of Industry and Trade, pursuant to § 16 section 2 of Act No. 21/1997 Coll. 'On Control of Exports and Imports of Goods and Technologies Subject to International Control Regimes', hereby provides as follows:

§ 1

On the basis of this general licence one may import from any state without restrictions those controlled goods¹ identified in a separate Decree² that are listed in Schedule No. 1 hereto, provided that the importer submits as part of the customs proceedings a declaration that the goods are imported for exclusive use in the territory of the Czech Republic and that they shall not be employed for the production, development, stockpiling or use of nuclear, chemical or biological weapons. A form of such declaration is in Schedule No. 2 hereto.

§ 2

This Decree becomes effective on the promulgation date.

Minister:
Ing. Dlouhý CSc., in his own hand

¹ § 2 sections 1 and 2 of Act No. 21/1997 Coll., 'On Control of Exports and Imports of Goods and Technologies Subject to International Control Regimes'.

² Decree No. 43/1997 Coll. of the Ministry of Industry and Trade, implementing Act No. 21/1997 Coll., 'On Control of Exports and Imports of Goods and Technologies Subject to International Control Regimes'.



Fulfilling the Obligations Ensuing from the Convention on the Prohibition of Chemical Weapons in the Czech Republic

The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction ("Convention") identifies the obligations of the States Parties in particular with regard to outlawing chemical weapons, controlling activities not banned under the Convention, passing the corresponding national legislation, and establishing a National Authority to serve as a national focal point for effective liaison with the Organisation for the Prohibition of Chemical Weapons ("Organisation") and the other States Parties to this Convention.

The Convention was signed on behalf of the Czech Republic by the Minister of Foreign Affairs in Paris on 14 January 1993. Following the consent by Parliament, the President of the Czech Republic ratified the Convention on 23 February 1996, and the Ministry of Foreign Affairs of the Czech Republic arranged for the ratification document to be deposited with the Depository, United Nations Secretary General, in New York on 6 March 1996. Thus, the Czech Republic became the 48th State Party that ratified this Convention.

Regarding domestic institutional arrangements, on 10 November 1993 the Minister of Foreign Affairs, after consultations with the Minister of Industry and Trade, informed the Government of the Czech Republic about the establishment of a Czech Preparatory Committee for the Prohibition of Chemical Weapons. The Deputy Minister of Industry and Trade was appointed Chairman of the Committee with the Deputy Minister of Foreign Affairs and the Deputy Minister of Defence acting as Vice-chairmen. Members of the Committee were representatives of the relevant ministries and organisations. The Committee was entrusted with the task of ensuring ratification of the Convention by the Czech Republic and implementing the ensuing obligations in national legislation. Following the entry of the Convention into force (29 April 1997), the Committee was dissolved having had fulfilled all tasks assigned to it.

To ensure fulfilment of the obligations ensuing from this Convention an Act of the Czech Republic was passed, since only in this manner was it possible to set forth the conditions governing and/or restricting some activities to which the Convention applies. This piece of legislation has been called "Act On Some Measures Concerning the Prohibition of Chemical Weapons, and On Amendments to Act No. 50/1976 Coll. 'On Zone Planning and the Building Code' (Building Act), as amended, the Small Businesses Act No. 455/1991 Coll., as amended, and the Penal Code Act No. 140/1961 Coll., as amended" and was published in the Collection of Acts of the Czech Republic under No. 19 on 26 February 1997 and entered into force as of that date. The Act, i. a.,:

- bans the development and subsequent handling of chemical weapons (consumption, stockpiling, acquisition, transfer, export, import, and transit);
- imposes certain obligations on natural persons and legal entities that handle scheduled chemicals (the obligation to obtain a licence for handling highly dangerous compounds, reporting duties, and the obligation to enable control in the premises of such organisations);
- imposes upon the National Authority of the Czech Republic the obligation to collect, evaluate, check, and control the relevant data and hand them over to the Organisation;
- creates legal conditions for regular inspections to be made in production organisation of the chemical industry and in organisations that handle scheduled chemicals;
- creates the legal environment for challenge inspections that must not be refused;
- creates legal conditions for co-operation with the Organisation and other States Parties to the Convention through the established National Authority.

Pursuant to the provisions of Act No. 19/1997 Coll. state administration and control in this area have been entrusted to the Ministry of Industry and Trade that also acts as the Office for Control of the Prohibition of Chemical Weapons ("Office"). The Ministry of Industry and Trade, in accordance with relevant provisions of Act No. 19/1997 Coll., issued the Decree No. 50/1997 Coll. that contains schedules of toxic chemicals. The Decree became effective as from 1 April 1997.

The Office has been also designated as the National Authority of the Czech Republic in accordance with Article VII, § 4, of the Convention.

Exports and imports of the scheduled chemicals is allowed only under a licence granted by the Licence Department of the Ministry of Industry and Trade in accordance with Act No. 21/1997 Coll. "On Control of Exports and Imports of Goods and Technologies Subject to International Control Regimes". Act No. 21/1997 Coll. came into force on 27 February 1997 and replaced Act No. 547/1990. Decree of the Ministry of Industry and Trade No. 43/1997 implementing Act No. 21/1997 (comprising also the lists of controlled items) and decree No. 44/1997 introducing the first General Licence for imports of chosen items took effect on 14 March 1997.

Act No. 21/1997 Coll. is a comprehensive legal norm, allowing the protection of state interests without unnecessarily limiting the business operations of manufacturers and dealers in controlled goods. Following the principles of EU legislation, Act. No. 21/1997 Coll. strengthens the effectiveness of export controls through new instruments and powers for state authorities, and by the stressing of prior exporters' responsibility for the verification of end-use documents and of the stated end-use of exported goods. "Catch-all-clause" and preliminary consent (voluntary or compulsory) to talks with foreign partners before the conclusion of a contract are fully new elements of the law. The new forms of Open Individual and General Licences in appropriate cases were also introduced. The licensing system according to Act No. 21/1997 is used, besides exports and imports of chemicals and their precursors listed in the Chemical Weapons Convention, also for exports and imports of so-called dual-use goods and technologies addressed by the Wassenaar

Arrangement, Nuclear Suppliers Group, Australia Group and MTCR. The list of controlled goods includes Schedule I, II and III chemicals of the Chemical Weapons Convention translated into Czech language.

To summarize, these pieces of legislation provide for the national legislative framework ensuring full implementation of the Convention by the Czech Republic. The Czech Republic thus became one of a few States Parties that had effective national legislation before the Convention entered into force. The information on the Convention entering into force was contained in the Notification by the Ministry of Foreign Affairs that was published in the Collection of Acts of the Czech Republic on 2 May 1997 under No. 94/1997 Coll.

To provide for and coordinate the tasks which the Czech Republic will have to fulfil as a result of the implementation of the Convention and meeting its obligations arising therefrom, it is anticipated that an inter-ministerial advisory body and a team of experts will be constituted to assist the Office. The former body should consist of representatives of the Ministry of Foreign Affairs, Ministry of Defense, Ministry of Interior, Ministry of Public Health, Ministry of Justice, Ministry of Finance, Ministry of Transportation and Communications, Association of Chemical Industry, and Licence Department of the Ministry of Industry and Trade. The team of experts would represent the Office's scientific background. The Office is also preparing cooperation agreements with the ministries and institutions concerned, which will facilitate the fulfilment of the tasks resulting from the Convention.

Despite the fact that chemical weapons were and are neither manufactured nor stored in the Czech Republic, performing the Convention will be a very demanding task, in particular with regard to the control of handling scheduled chemicals that might be used for purposes not banned under the Convention. In addition to organisations manufacturing chemicals identified in the schedules incorporated in Decree No. 50/1997 Coll., control will have to be extended to organisations whose size and character make them potential manufacturers of such compounds (organisations with annual output in excess of 200 tonnes of discreet chemicals or in excess of 30 tonnes of organic chemicals containing in their molecules phosphorus, sulphur, or fluorine).

A substantial part of the industry must prepare for performing the Convention. Application of both the Convention and the Act will affect a great number of chemical, pharmaceutical and other organisations that manufacture, process, import, or export scheduled chemicals. A major part of controlling activities will thus lie within the purview of the Ministry of Industry and Trade which will also act as the National Authority in the Czech Republic and to which potential enquiries are to be addressed.