

Strategic Products Act (1991:341)

Introductory provisions

Section 1

This Act applies to the control of exports of strategic products. The Act also contains certain additional provisions under Council Regulation (EC) no. 3381/94 of 19 December 1994 setting up a community regime for the control of exports of dual-use goods.

In addition to what is stated in this Act, the provisions of the Military Equipment Act (1992:1300) and the Act on Nuclear Activities (1984:3) may be applicable.

Section 1a

Permits shall be granted under this Act or in accordance with regulations issued by virtue of this Act if they do not conflict with Sweden's foreign policy, security policy or defence policy interests.

Section 1b

Questions concerning permits under this Act and in accordance with Council Regulation (EC) no. 3381/94 shall be examined by the National Inspectorate of Strategic Products or by an authority appointed by the Government.

The authority shall submit a matter, with a statement, to the Government for consideration if the matter is of principle significance or is otherwise of special importance.

The Government may issue additional regulations regarding the submission of matters to the Government.

Scope of the Act

Section 2

To the extent prescribed by the Government, this Act applies to

1. complete missile and rocket systems and other unmanned air vehicle systems capable of carrying weapons of mass destruction,
2. subsystems, components and constructional materials usable in the systems referred to in item 1, and which are capable of delivering to a range of at least 300 kilometres
3. testing and manufacturing equipment which has been specially designed for the systems, subsystems and components referred to in items 1 and 2,
4. biological agents that can be used in biological weapons and chemical products that can be used for the manufacture of chemical weapons (chemical precursors),
5. equipment that can be used for the manufacture of biological or chemical weapons and of the biological agents and chemical precursors referred to in item 4,
6. nuclear substances, minerals containing nuclear substances, products from nuclear substances or goods containing such substances,
7. equipment or material specially designed or installed for processing, use or production of nuclear substances,
8. equipment or material that can be used to produce nuclear charges,
9. other high technology products that can be used directly or indirectly for destructive purposes,
10. software for automatic data processing and other software specially designed for the products referred to in items 1-3 and 9 or the equipment or the material referred to in items 5, 7 and 8, and
11. other products which wholly or partly are or may be intended for use in connection with
 - a) the development, production, handling, operation, maintenance, storage, tracing, identification or proliferation of chemical or biological weapons or nuclear weapons,
 - b) the development, production, maintenance or storage of robots capable of carrying weapons covered by the corresponding international export control arrangements.

Definitions

Section 2a

The following definitions apply in this Act:

Supply: sale, transfer, offer for sale, loan, gift or intermediation,

manufacturing right: any right to manufacture a product subject to the provisions of this Act,

nuclear substance: uranium, plutonium or other substances used or which can be used for extracting nuclear energy (nuclear fuel) or compounds containing such substances, thorium or other substances intended to be converted into nuclear fuel or compounds containing such substances, and spent nuclear fuel that has not been put into terminal storage.

Export

Section 3

The Government shall issue regulations on the strategic products under Section 2 for which an export permit is required under Council Regulation (EC) no. 3381/94 .

The Government or the authority appointed by the Government may issue regulations to supplement the provisions on export permits in Article 6 of Council Regulation (EC) no. 3381/94.

Section 3a

Regarding the export, without a permit, of products referred to in Section 3 first paragraph, the provisions on the smuggling of goods and attempted smuggling of goods contained in the Smuggling of Goods (Penalties) Act (1960:418) apply.

Exports referred to in Articles 19-21 of the Council Regulation (EC) no. 3381/94 may not take place without a permit.

Section 4

Regarding permits to export spent nuclear fuel, the restrictions specified in Sections 20 a and 24 of the Radiation Protection Act (1988:220) apply.

Agreements on Manufacturing Rights

Section 5

Agreements which imply the licensing or transfer of rights to manufacture the products listed in Section 2, items 1-5 and 7-9 to a person or entity abroad may not be entered into in this country without a permit.

Nor may Swedish authorities, Swedish companies and private individuals who are domiciled or have their habitual abode here enter into such agreements abroad without a permit.

Amendments to licensing agreements

Section 5a

Agreements on additions or amendments to licensing agreements of the type requiring a permit under Section 5 may not be entered into without a permit if the amendment or addition concerns

1. the products covered by the agreement,
2. the grant or transfer of a right under the agreement,
3. the right to supply products to recipients not previously specified, or
4. extension of the agreement's period of validity.

Supply

Section 6

Products listed in Section 2 which are located abroad may not be supplied in this country to any person or entity abroad without a permit.

Swedish authorities, Swedish companies and private individuals who are domiciled or have their habitual abode in Sweden may not supply such products abroad without a permit.

Section 6a

(To enter into force when the Government so decides)

The products listed in Section 2 item 4 may not be imported to the country without a permit.

The Government may issue regulations concerning exemptions to the permit requirement for certain products or for importation from certain countries.

Declarations, etc.

Section 6b

In accordance with more detailed instructions issued by the Government, a declaration shall be made each year by persons or entities who

1. produce, prepare, use, import or export the products listed in Section 2 item 4,
2. in any of the last three years produced, prepared, used, imported or exported such products, or

3. produce discrete organic chemicals.

The declaration shall provide information about

1. activities in the previous calendar year,
2. activities planned for the coming calendar year,
3. changes in activities planned for the current calendar year.

Section 6c

Persons or entities who have submitted a declaration under Section 6b shall, on the request of the authority appointed by the Government to receive declarations, provide the information and documents needed for control of the information given in the declaration.

For control purposes, representatives of the authority are entitled to access to the areas, premises and plants in which activities covered by the obligation to submit a declaration are carried on and they may carry out examinations and take samples.

The police authorities shall provide the assistance needed in order to carry out the inspection.

Section 6d

Regulations concerning the obligation of manufacturers of the products listed in this Act to pay a yearly fee to cover the cost of the National Inspectorate of Strategic Products are to be found in Section 22 of the Military Equipment Act (1992:1300). Persons or entities liable to pay a fee shall provide The National Inspectorate of Strategic Products with the information needed to determine the fee each year in accordance with the detailed regulations issued by the Government.

The Government may issue regulations on exemptions from the obligation to submit a declaration.

Conditions, etc.

Section 7

A permit under this Act may involve conditions and control provisions and other regulations.

Withdrawal of permits

Section 8

Licences under Sections 3, 5 and 6 may be cancelled if the permit holder has disregarded the regulations in this Act or regulations, conditions or provisions issued by virtue of the Act or if there are other special reasons for withdrawing the permit.

Withdrawal of a permit may not refer to a permit for an agreement under Section 5 or 5a which has already been entered into.

Withdrawal of a permit takes force immediately unless a decision has been taken to some other effect.

Appeal

Section 8a

An appeal may be lodged with a general administrative court against a decision to withdraw a permit by an authority other than the Government.

Review dispensation is required in the case of appeal to an administrative court of appeal.

Appeals may not be lodged against other administrative decisions under this Act or under Council Regulation (EC) no. 3381/94.

Liability provisions, etc.

Section 9

Provisions on illegal exportation and attempted illegal exportation are contained in the Act on Penalties for the Smuggling of Goods (1960:418).

Section 10

Any person who offends against Sections 5, 5a or 6 shall be sentenced

1. if the offence was intentional, to fines or at most to two years imprisonment,
2. if the offence was a result of negligence, to fines or to imprisonment for at most six months.

Any person who by intentional deception induces the Government or some other authority to grant a permit in accordance with Sections 5, 5a or 6 and in this way causes the agreement or supply to take place, shall be sentenced to fines or to

imprisonment for at most two years. If the offence is the result of negligence, the sentence shall be fines or imprisonment for at most six months.

In minor cases, no sanction shall be imposed.

Section 11

If an offence under Section 10 has been committed intentionally and it is to be regarded as a grave offence, the penalty shall be imprisonment for at least six months and at most four years.

In judging the gravity of a crime, special attention shall be paid to whether the products were of a particularly dangerous kind, whether the crime involved a substantial value or was otherwise of a particularly serious nature.

Section 12

Any person shall be sentenced to fines or to imprisonment for at most six months who, intentionally or due to lack of care,

1. in cases other than those referred to in Sections 3a first paragraph, 9 and 10 second paragraph gives incorrect information in his/her application for a permit or in any other document which is of importance for the processing of the matter under this Act or under Council Regulation (EC) no. 3381/94 or in a declaration,

2. disregards conditions or violates control provisions and other regulations which have been issued by virtue of this Act,

3. disregards the obligation to provide information under Article 4.2 of Council Regulation (EC) no. 3381/94.

In minor cases, no sanction shall be imposed.

Section 13

No sanction shall be imposed under this Act if the offence is punishable under the Penal Code.

Section 14

The proceeds of an offence as defined in Sections 10 and 11 shall be declared to be forfeited, unless it would be manifestly unreasonable to do so.

Section 15

If the person or entity under obligation to provide information neglects to submit a declaration as described in Section 6b or 6d at the right time, the authority that is to

receive the declaration shall order the person or entity on penalty of a fine to fulfil his/its obligation.

Supervision and control

Section 16

Inspection and other forms of control of observance of the provisions of Council Regulation (EC) no.3381/94 shall be carried out by the National Inspectorate of Strategic Products or by the authority appointed by the Government (supervisory authority). The Government may issue regulations on supervision.

Section 17

The supervisory authority is entitled on request to obtain the information and documents necessary for monitoring the activities of a person or entity engaged in export of strategic products.

The supervisory authority is entitled to access to premises in which the activities of the exporter are carried on. However, this does not apply to private rooms.

The supervisory authority is entitled to request the assistance of other public authorities in its supervision.

Section 18

Persons or entities who are liable under Article 14.2 or Article 19.2 of Council Regulation (EC) no. 3381/94 to keep and, on the request of the supervisory authority, to present documents shall keep the documents for five years or the longer period that may be prescribed for some information or documents under another Act or statute.

Provisional regulations

This Act enters into force on 1 April 1993.

Permits granted by virtue of an older provision shall in the application of the new provisions be considered to be granted under these.

The provisions contained in Section 5a shall be applied to agreements of the type described in Section 5, even though the agreement did not require a permit under the older provisions.