

Annex 5. General licence for the transfer of defence-related products to armed forces, as referred to in Article 14, §2, point 1 of the Flemish Parliament Arms Trade Act and Article 9, §1 of the Government of Flanders Arms Trade Decree (General Licence No. 1)

§1. Defence-related products

1. This general licence applies to all defence-related products and product categories included in the Common Military List of the European Union.

§2. Destinations and consignees

2. This general licence applies to the transfer by persons having their residential address or registered office in the Flemish Region to consignees who formally constitute a part of the armed forces of another EU Member State or to a contracting authority in the field of defence, which does the purchasing for the exclusive use by the armed forces of a Member State, with the exception of the armed forces of the Kingdom of the Netherlands and the Grand Duchy of Luxembourg.

§3. Terms and conditions for the use of the general licence

3. Persons who wish to utilise this general licence for definitive transfers, must be holders of a prior authorisation, as referred to in Article 10, §1 of the Flemish Parliament Arms Trade Act and in Articles 29 to 31, inclusive, of the Government of Flanders Arms Trade Decree.
4. A person who can utilise this general licence must register with the Strategic Goods Control Unit, as referred to in Article 14, §6 of the Flemish Parliament Arms Trade Act and in Article 10 of the Government of Flanders Arms Trade Decree. He, she or it can only make transfers on the basis of this general licence if he, she or it has received confirmation of the registration from the Strategic Goods Control Unit.
5. For the first transfer to a particular consignee based on this general licence, there must be verification that the consignee does actually formally constitute a part of the armed forces of another EU Member State or is a contracting authority in the field of defence which does the purchasing for the exclusive use by those armed forces, and written proof of this must be kept.
6. With each transfer based on this general licence, there must be an indication on the commercial documents accompanying the shipment that this general licence is used and a mention of the registration number that was received, as referred to in Article 10, §4, second subsection, point 2 of the Government of Flanders Arms Trade Decree.
7. The consignee must be notified of the restrictions referred to in paragraph 5 of this licence, as referred to in Article 12, §2, second subsection of the Flemish

Parliament Arms Trade Act, no later than at the time of transfer, and written proof must be kept of this.

8. The defence-related products, which, on the grounds of this general licence, are temporarily transferred to another Member State must be re-transferred to the Flemish Region, as referred to in Article 9, §2, point 4 of the Government of Flanders Arms Trade Decree, no later than three years after the temporary transfer. Written proof is kept of the re-transfer.
9. Persons utilising this general licence must keep a detailed and full summary of their transfers based on the licence for a minimum of seven years, as referred to in Article 49, §2 of the Flemish Parliament Arms Trade Act and in Article 58, §1 and 60, §1 of the Government of Flanders Arms Trade Decree.
10. Persons utilising this general licence must use the summary referred to in item 9 to compose the biannual reports of their transfers to be provided to the Strategic Goods Control Unit, as referred to in Article 49, §1 of the Flemish Parliament Arms Trade Act and Articles 57, 58 and 60 of the Government of Flanders Arms Trade Decree.

§4. Exceptions and restrictions on the use of the general licence, as referred to in Article 14, §7, second subsection of the Flemish Parliament Arms Trade Act and Articles 9, §2, and 11 of the Government of Flanders Arms Trade Decree

11. This general licence may not be used for the transfer of defence-related products for permitted purposes, the transfer of which is prohibited on the grounds of Article 3, §1, first subsection of the Flemish Parliament Arms Trade Act.
12. This general licence may not be used for the definitive transfer of defence-related products if, at the time of the intended transfer, it is an established fact that the end use of the defence-related products shall take place outside the European Union and the end user outside the European Union is known at that point in time, unless:
 1. said end user is formally a part of the armed forces of a Member State of the EU or NATO;
 2. the export is necessary for the implementation of the intergovernmental cooperation programme between EU Member States for the purposes of the development, production and use of one or more defence-related products that follows on to the respective transfer;
 3. the country of end use is a Member State of NATO, a Participating State of the Wassenaar Arrangement referred to in Article 16 of the Government of Flanders Arms Trade Decree or a friendly or allied country, as referred to in Article 26, §4, first subsection of the above-mentioned Flemish Parliament Act;
 4. the transfer concerns non-essential components, as referred to in Article 3, point 4 of the Government of Flanders Arms Trade Decree, other than non-essential components of sensitive goods, which the consignee will fully integrate into his, her or its own product, as referred to in Article 9, §2, first subsection, point 2, d) of the Government of Flanders Arms Trade Decree.

Persons utilising the general licence in the case referred to in item 12, point 2 keep written proof that the export is necessary to implement the intergovernmental cooperation programme between EU Member States for the production of one or more defence-related products to which the respective transfer corresponds.

Persons utilising a general licence in the case referred to in the item 12, point 4 keep a written declaration made by the consignee in which the latter declares that the respective components will be integrated into his, her or its own product.

13. This general licence may not be used to transfer defence-related products for purposes for which the use of the general licence was restricted in application of Article 14, §7, second subsection and Article 43 of the Flemish Parliament Arms Trade Act and Articles 46 to 49, inclusive, of the Government of Flanders Arms Trade Decree.

14. This general licence may not be used to transfer defence-related products for the purposes falling under the general licences, numbers 3, 4, and 5, as referred to in Article 11 of the Government of Flanders Arms Trade Decree.

§5. Restrictions on the end use and export to countries outside the European Union, as referred to in Article 9, §2 of the Government of Flanders Arms Trade Decree

15. Defence-related products that are transferred to another Member State on the grounds of this general licence may not be utilised in or exported to a country outside the European Union for the use, development or production of defence-related products, the transfer of which is prohibited on the grounds of Article 3, §1, first subsection of the Flemish Parliament Arms Trade Act;

§6. Suspension and restriction of the general licence, as referred to in Article 13 of the Government of Flanders Arms Trade Decree

16. In application of Article 43 of the Flemish Parliament Arms Trade Act and Articles 46 to 49, inclusive, of the Government of Flanders Arms Trade Decree, the use of this general licence can be suspended or restricted.

§7. Temporary exclusion of persons utilising the general licence

17. In application of Article 44 of the Flemish Parliament Arms Trade Act and Articles 50 and 51 of the Government of Flanders Arms Trade Decree, a person can be temporarily excluded from using this general licence.

§8. Taking effect

18. This general licence shall come into effect on 30 June 2012.

To be annexed to the Government of Flanders Decree of 20 July 2012 in implementing the Flemish Parliament Arms Trade Act.

The Flemish Minister of Economy, Foreign Policy, Agriculture and Rural Policy

Kris PEETERS