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SYSTEM AS OF MARCH 1, 1999.**

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# Russian Nuclear Export Control System

A Description and Overview of the Current Procedure of Export Control in the Russian Federation  
As of March 1, 1999

## General Characteristics

The Russian Federation's system of export controls is complicated and changeable. It is currently a patchwork system, not unified. Exporters bear final responsibility for compliance, but are also called upon to shepherd their export applications through each step of the system described below. Russia gives only one-time, specific-good licenses: there is no such thing as a general license in Russia.

## Elements of RF Export Control

Five stages in the current export control process can apply. At each stage, the exporter is responsible for submitting to the reviewing organ the specific packet of documents it requires, often including the written conclusions of previous organs.

1. Internal Review : ICP
2. Ministerial Review: Export Council
3. VEK/InterAgency Review: Dual-Use/Possibility of Export
4. Ministry of Trade: License
5. Customs: Final check

### 1. Internal Exporter Review

The first stage is the exporter's self-review via an internal compliance program (ICP). At this stage, the exporter uses the item's classification number to determine which, if any, control regimes apply to the export. Only a very select few enterprises have the right to export military items, whether or not the items fall under export control lists. Thus, even if an item is deemed 'uncontrolled', the exporter must still be sure the export is in compliance with other laws and regulations of the Russian Federation.

While Presidential Decree 57 (Jan 1998) made ICPs (and a designated, hierarchically-independent export control person at each enterprise) mandatory and a May 1998 VEK decree provided a framework for implementation, they have not yet become standard business practice. The Center on Export Controls, together with the Security Council of the Russian Federation and the U.S. Department of Commerce, is conducting outreach seminars to provide the background, tools, and 'buy-in' for Russian exporting enterprises to establish ICPs.

Minatom enterprises have been required to have ICPs since 1996.

### 2. Ministerial Review: MINATOM

Since most military-industrial complex (MIC) enterprises in Russia are not independent but instead fall under the partial or complete jurisdiction of one of Russia's ministries, the second stage of export review takes place at the ministerial level. The procedure here depends on the specific ministry, whether the ministry has an export review mechanism, and how detailed is its review. Minatom's Export Council, established in 1996, has since been copied by several other ministries including the Ministry of Economy and the Russian Space Agency.

When the Minatom Export Council receives an export proposal—a draft contract for export—from a Minatom enterprise, it is circulated for interdepartmental review. If the expertise of headquarters personnel (engineers and scientists themselves) is exceeded, the Department of International Affairs of Minatom may send the export to the designated export control laboratories, IPPE and VNIITF, for expert review to answer the question "is this item controlled?" IPPE and VNIITF, in turn, may consult a network of scientific-technical experts at institutes like VNIINM, VNIPIET, and NIKIET in answering this question.

After concluding its interdepartmental review, the Export Council allows or disallows the export, returning to the applicant four possible answers: that the export

is forbidden; that no license is needed to export the item; that the item is 'dual-use' and should undergo dual-use review at the Federal Service for Currency and Export Control (VEK); or that the item is a nuclear 'trigger list' item.

In the case of a 'non-critical' trigger list item, the exporter next applies for a license at the Ministry of Trade. (For the export of a 'non-critical' trigger list items: the exporter must have GosAtomNadzor certification; Minatom must agree to the export; appropriate import certificates must be obtained; and the Ministry of Trade must grant a license.)

'Critical' trigger list items are defined as uranium enriched to or above 20%, reprocessing assemblies, uranium isotope separation assemblies, heavy water production assemblies, assemblies for the conversion of enriched uranium and plutonium, the components of these assemblies, and the technologies connected to critical nuclear production. Such items can be exported only with a decision of the Government and the permission of EksportKontrol, of which VEK is the working body, in addition to the 'non-critical' requirements outlined above. Government permission is required to even conduct official talks with foreign governments on the export of 'critical' nuclear items.

### **3. VEK/InterAgency Review**

One of VEK's requirements for proposed exports—both dual-use and critical trigger list—is a certificate from the newly-created Federal Agency for the Protection of State Intellectual Property (FAPRID), located in the Ministry of Justice. This agency evaluates whether the content is exportable and whether proceeds should accrue to the state (or other owner of the intellectual property). The mechanisms and procedures of the body are still unclear, making its work quite controversial. FAPRID has 30 days to conduct its review, though even its director has hinted that this is unrealistic.

With a FAPRID conclusion, dual-use and critical nuclear trigger list exports are then reviewed by VEK, who will decide on the ability to apply for a license to export the item. VEK has 30 calendar days (about 20 working days) to review the paperwork for accuracy, completeness, and compliance and to coordinate interagency input on the proposed export. VEK closely examines the guarantees in the contract and can demand changes to it.

Then, VEK hand-carries packages of original documents from agency to agency, each of which carries out its own review and may, like the Ministry of Defense, send out to ministerial laboratories for technical review. It is at this stage where any end-use/end-user review takes place. All exports must be agreed to by the Ministry of Foreign Affairs, Ministry of Defense, Ministry of Atomic Energy, Ministry of Trade, and VEK. Certain items require additional ministries' review as well, depending on the controlling lists.

In their review, Minatom circulates these cases through its departments, though informal reports indicate that Minatom assigns less priority to dual-use items than to nuclear or Minatom-source items. (75% of dual-use contracts are not from Minatom institutes.)

#### **Critical nuclear trigger list items**

VEK, MOD, Minatom, and the Intelligence Service must concur to the export of critical trigger-list items before Minatom or its enterprises can sign an export contract. For a critical nuclear export, only after the license is received from the Ministry of Trade may the exporter sign the contract.

### **5. Ministry of Trade (formerly MFERT)**

Only at the stage of application to the Ministry of Trade (formerly the Ministry of Foreign Economic Relations and Trade) can the export application accurately be called a 'license application'. The authorization to export, in the Russian system, is separate from the administrative function of license issuance. An import certificate and, depending on the commodity, a letter of authorization from VEK or Minatom must be included in the packet of documents. Coordination between the Ministry of Trade and VEK is close, though. When VEK issues a decision to an exporter, it

provides the Ministry of Trade with a copy, expediting the process of receiving a license.

## **6. Customs**

After receiving a license, the exporter fills out a declaration form at his Customs office, stating the customs code number (from the control list) of the item. When this declaration is registered, the database flags controlled codes and alerts the customs officers that the exporter needs a license and special customs documentation to export the item. A special Non-Tariff division of customs scrutinizes the license and special additional paperwork before standard customs procedures resume.

Customs codes are broader than controls, however—goods falling outside the parameters of control are nonetheless classified under the same code, and thus are flagged to receive greater scrutiny. Certain 'risk criteria' like a risky end user are also scrutinized. In this way, catch-all control is implemented.

If customs can't determine whether the item is controlled, they begin the process of investigation, which could include expert evaluation by Minatom, MoD, or even FAPRID labs. More paperwork may be required by the Commission on Military-Technical Policy in the Ministry of Defense to determine if the item is, indeed, exportable. However, Customs bears financial responsibility if they delay legitimate commerce beyond 10 days.

At the border, regular inspectors may choose to inspect the item physically. Should this item include fissile materials, the inspection will be performed by the Radioactive and Fissile Material inspectors. If at the front line an item carries a red-flagged code, a Non-Tariff representative is summoned. Similarly, if an inspector can't identify a commodity, it is a representative of the Non-Tariff division which is contacted.

### **Summary:**

The Russian system of nuclear export controls can be costly and time-consuming, especially for exporters who do not yet know the system. The attached schematic attempts to visually summarize the process.

