

CBW-relevant export controls

Malta as a case study of an integrated approach

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Malta

- Location

- Centre of the Mediterranean: south of Sicily (Italy), east of Tunisia and north of Libya
- Crossroads between Europe, North Africa and Middle East

- Consequence of Membership

- Supranational EU law becomes Maltese law
- National laws and regulations had to be amended to conform to EU law

Malta in the Mediterranean



Malta in the European Union

- **Membership:**
 - Joined the EU on 1 May 2004
 - Held the 6-monthly rotating Presidency for the first time from January till June 2017
- **Consequences of Membership**
 - **Legal**
 - Supranational EU law becomes Maltese law
 - National laws and regulations had to be amended to conform to EU law
 - **Political**
 - Being party to all weapon control treaties (BTWC, CWC, NPT, etc.) is mandatory for all states seeking EU membership
 - Fully endorses the EU's policies concerning disarmament and non-proliferation

Maltese economy

- **Economy:**
 - Small insular state
 - GDP: ± €8.8 billion
 - Few natural resources
 - National economy is highly dependent on
 - Import and export, and therefore on
 - international economic climate
- **Trade**
 - Export value: ± €2,73 billion; Import value: ± €2,77 billion
 - Values may fluctuate greatly from year to year
 - EU Members, North African states and China are the most important trading partners
 - Export of services, machinery, electronic and electrical equipment, refined petroleum, chemicals, pharmaceuticals, instruments, clothing and footwear, and books and newspapers
 - Re-exports: mostly fuel
 - Import of raw materials and industrial supplies

EU law applicable to Malta – 1

- Regulation (EC) No 428/2009
 - *EU regime for the control of exports, transfer, brokering and transit of dual-use items* (in force since 27 August 2009)
- Major instrument: holistic, all-encompassing regulatory approach
 - Estimated value of controlled dual-use exports from the EU: up to €85 billion (2017)
 - Covers following types of armament programmes:
 - Biological, chemical and nuclear weapons
 - Ballistic missiles
 - Conventional arms
 - Defines 4 different types of export authorisations:
 - EU general export authorisations (EUGEAs)
 - National general export authorisations (NGEAs)
 - Global licences
 - Individual licenses
- European Commission conducts a regular export control policy review

EU law applicable to Malta – 2

- Main components of Regulation (EC) No 428/2009
 - Detailed control lists based on lists developed by or included in:
 - *Australia Group* (chemical and biological weapons, and related equipment)
 - *Chemical Weapons Convention* (3 Schedules listing warfare agents and their precursors for verification purposes)
 - *Nuclear Suppliers Group* (nuclear weapons and other nuclear explosive devices, and relevant installations & equipment)
 - *Missile Technology Control Regime* (missiles and unmanned aerial vehicle technology capable of carrying a payload above 500 kg for more than 300 km)
 - *Wassenaar Arrangement* (conventional arms and dual-use goods and technologies)
 - **Catch-all principle**: the export of non-listed dual-use items may be subject to authorisation if there is reason to believe that they are intended for use in connection with a biological, chemical, nuclear weapons or ballistic missile weapons programme or for military use in countries subject to an arms embargo.
 - With some exceptions, free trading and movement of dual-use items within the EU
- Possible additional actions by individual EU Members:
 - Additional controls on non-listed items for public security or human rights reasons
 - Restrictions on brokering services of dual-use items and on their transit through the EU

Maltese national legislation

- Internet law portal (with extensive search function)
 - <http://www.justiceservices.gov.mt/>

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Court Services Legal Services

5 April 2017 Help

Laws of Malta - Last Updated On: 4th April, 2017

ABOUT THIS WEBSITE

The Laws of Malta website is a service provided by the Ministry for Justice, Culture and Local Government. It brings together a collection of all the Laws of Malta, including the [Constitution of Malta](#), the [Statute Law Revision Act, 1980](#) and the full compilation of subsidiary legislation. It is primarily intended to satisfy the requirements of the judiciary, lawyers, notaries, legal procurators, courts' personnel, law students, journalists and last, but not least, the public in general. It is free of charge, has unlimited use and presents no fees whatsoever to download copies of all the Laws of Malta in PDF format.

The website primarily offers the following services:

- All the Chapters of the Laws of Malta, including the Constitution of Malta and the Statute Law Revision Act, 1980;
- Subsidiary legislation made under all the Chapters of the Laws of Malta including subsidiary legislation made under the Constitution of Malta;
- Publications of the supplement to the Government Gazette, i.e. Acts, Bills, Legal Notices, Bye-Laws, as originally promulgated;
- Direct access to EU law and relevant search facilities;
- Chronological and analytical indexes for all the legislation; and
- Search facilities.

Chapters of the Laws of Malta

This page includes all the principal legislation currently in force, regularly updated with amendments and new legislation approved by the House of Representatives.

Latest Updated

- Duty on Documents and Transfers Rules
- Criminal Code
- Traffic Regulation Ordinance
- Child Protection (Alternative Care) Act
- Standards in Public Life Act

Relevant international treaties (with focus on CBW)

- 1972 Biological and Toxins Weapons Convention (BTWC)
 - Deposit instrument of ratification: 7 April 1975
 - No specific national law implementing the BTWC
- 1993 Chemical Weapons Convention (CWC)
 - Deposit instrument of ratification: 28 April 1997
 - Chemical Weapons Convention Act (Act No. V of 1997, as amended by Legal Notice 216 of 2000)

Relevant national legislation with respect to acquisition and transfers

- Specific to CW:
 - Chemical Weapons Convention Act (Act No. V of 1997, as amended by Legal Notice 216 of 2000), Art. 4
- Covering both BW and CW
 - Criminal Code (Amendment) Act (Act No. VI of 06 June 2005), Art. 328A (2)(f)
- Provisions apply to *both state and non-state actors* with regard to:
 - Use
 - Development, production, and any other form of acquisition
 - Possession, stockpiling and storage
 - Transfers, transport, financing
 - Participation as an accomplice in such activities

Relevant national legislation with respect to *regulatory oversight*

- Specific to CW:
 - Chemical Weapons Convention Act (Act No. V of 1997, as amended by Legal Notice 216 of 2000), Art. 5
 - Establishes the *National Authority* as required by the CWC
- Specific to BW
 - Prevention of Disease Ordinance (Chapter 36), as amended by various Ordinances and Legal Notices
- Provisions apply to:
 - Production
 - Storage
 - Transport

Biological and chemical security and safety

- EU regulations in addition to provisions in afore-mentioned national legislative measures
 - Specific to CW:
 - Directive 98/24/EC
 - Protection of the Health and Safety of Workers from the Risks related to Chemical Agents at Work Regulations, 2003 (L.N. 227 of 2003) (S.L. 424.24)
 - Specific to BW
 - Directive 2000/54/EC
 - Protection of Workers from Risks related to Exposure to Biological Agents at Work Regulations, 2003 (L.N. 228 of 2003) (S.L. 242.25)
- Other national law
 - Environment Protection Act of 18 September 2001 as amended
- Other international sources of CBW regulation
 - International Ship and Port Facility Security (ISPS) Code since 1 July 2004
 - World Health Organisation / International Health Regulations
- Provisions apply to:
 - Production, storage, handling and manipulation (use) of materials, transport
 - Licencing, registration of installations and facilities, legal and natural persons (by Ministry of Commerce)

Freeport

- **Birżebbuġa**
 - Port located at the south-eastern tip of Malta's main island
 - Freeport established in 1988 as a transshipment hub
 - Mostly container traffic
- **Malta Freeports Act (Chapter 334 – 20 April 1990)**
 - Companies operating in Freeport are licenced by the Freeport Authority to undertake a limited set of activities
 - Licenced companies must declare the nature, quantity and country of origin, consignment or destination of the goods; and records must be available for inspection
 - Licence can be revoked, seizures undertaken and criminal charges brought in case of violation of the laws of Malta
 - Export, import and transshipment of dual-use goods fall under the pertinent national laws and EU regulations

Summary

- Regulatory system rooted in international law
 - BTWC
 - CWC
 - EU regulations
- Regulation and criminalisation
 - Integrated in national laws on oversight, criminal and penal law
 - Licensing and registration system related to pertinent activities
- Import, export and transshipment are integrated in a complex of legislative and regulatory provisions that cover:
 - Weapon prohibition
 - Dual-use technology transfers (internal and external)
 - Chemical and biological safety and security
 - Occupational health regulations
 - Environmental regulations



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