

ROUND-TABLE MEETING ON DISCUSSION OF PROPOSALS ON UPDATING UKRAINIAN EXPORT CONTROL LEGISLATION IN ACCORDANCE WITH EU STANDARDS AND ON PRESENTATION OF THE UKRAINIAN EXPORT CONTROL HANDBOOK

With support of the Swedish Radiation Safety Authority (SSM) in the framework of cooperation on improvement of export control of Ukraine, the Scientific and Technical Center has held a round table meeting “EU integration element of Ukraine: adaptation of the Ukrainian export control legislation to the EU standards” on August 26, 2016.



Alexander Siver, Director of the STC, opened the round table meeting with a welcome speech and informed its participants about the latest activities of STC, its considerable experience in implementing international projects and holding of outreach events noting herewith the relevance of this meeting that contributes to improvement of Ukrainian export control legislation. After expressing

gratitude for support and assistance to **Sarmite Andersson** (SSM) and **Grzegorz Gawlik** (Export management systems, Poland) A. Siver introduced EU delegates – **Grzegorz Gawlik** and **Thomas Tjader** and representatives of Ukrainian state agencies – Acting Chairman of the SSECU **Ihor Savula**, Director of the Foreign Policy Institute **Hruhoriy Perepelytsya**, Director of the analytical and legal department of the SSECU **Viktor Polyanskiy**, Counsellor of the military and technical cooperation and export control department of the MFA of Ukraine **Henadiy Tonkoshkur**. A. Siver briefly informed participants about the substance of the research work on comparison of legislation and export control requirements of Ukraine and Poland as an EU Member-State, encouraged everybody to participate actively and gave floor to the Presidium for the welcome speeches.

Ihor Savula addressed attendees with a wish of gaining practical experience at the round table meeting and underlined that civilized dialogue between business entities and state authorities is an important component of adjusting our legislation to the EU standards. This line of cooperation stipulates obtaining productive results directed at further development of our country. I.Savula expressed gratitude to our foreign partners for their support in



reforming export control of Ukraine and noted the good timing of this event because of his determination in introducing profound changes into legal acts and in procedures simplification.

In his welcome speech **Hennadiy Tonkoshkur** noted the limitations of the military and technical cooperation because of the aggression against our country and expressed his readiness in contributing to any legislative initiatives.



The first session was opened by **Viktor Polyanskiy** with his presentation about the current state of the Ukrainian export control system and practical components of the harmonization process according to the EU standards. His presentation included information about legal and normative base, main procedures in the field of the

state export control, elucidation on the structure of the control lists of goods that are subject to export control, mechanisms of the state control over the end use of exported commodity, advantages of participating in the international export control regimes. Special attention was paid to the practical steps towards harmonization with EU standards according to the Action Plan on implementing Association Agreement between Ukraine and European Union. In this context V.Polyanskiy described directions of further coordination of the state export control procedures and rules with the relevant EU norms and standards, in particular, regarding introduction of changes into the Law of Ukraine "On the state control over international transfers of dual-use and military goods"; adaption of new edition of the Procedure of implementing state control over international transfers of dual-use goods and introduction of the Single Control list of dual-use goods into national legislation substituting the current five lists of dual-use goods.

Grzegorz Gawlik reported on the topical aspects of functioning of the EU export control system.



– компетенция ЕС (область)
– Применяется непосредственно (Разпоряжения ЕС) в

In particular, he outlined the current novelties in the EU Member-States considering national peculiarities and the necessity of coordinating export control requirements. It is important, from the speaker's perspective, to provide equality for all exporters of each EU Member-State. Furthermore Mr. Gawlik paid attention to the arms

trade harmonization process in EU, explained control procedures over dual-use goods noting that EU Regulation 428/2009 is the main law establishing control over dual-use goods along with national provisions in parts allowed by the Regulation.



Great attention was paid to the presentation of **Yuriy Lazarenko**, main specialist of the SSECU, on the results of a comparative analysis of Ukrainian and EU legislation in the field of export control over international transfers of dual-use goods. The speaker expounded the procedural differences in controlling dual-use goods in Ukraine and Poland and pointed out the relevance in

further profound studies of national provisions of the EU Member-States in the field of export control. Furthermore, during analysis process, according to Mr. Lazarenko's estimates, the rationale for introducing changes and additions into the Law of Ukraine №549 of 20.02.2003 has come up. This refers to terminology, in particular regarding export (transfers of software and technologies by electronic means of communication); brokering activity related to the transfers of dual-use goods; limitations in the use of open and general licenses, etc.

Thomas Tjader informed participants about the ways of developing international trade controls in the EU Member-States. In his opinion, understanding by all parties the importance of national engagement and divided responsibilities is an important precondition of an effective export control system. Sustainability of the



export control system in regard export and transit of dual-use goods, goods related to WMD including the control over the end use of dual-use goods and technologies is impossible without credibility and transparency. In this context an open dialogue between industry and authorities is vitally important as well as availability of the relevant information.

Sergey Kondratov, a senior research associate of the National Institute for Strategic Studies, reported on the process of preparing Ukrainian version of the Single Control List of dual-use goods. Participants of the round table meeting received information on the main stages of work



that consisted in regular tracking in the EU official publications of changes and updates to the European list considering decisions made at the plenary meetings of the export control regimes and their translation into Ukrainian. Mr. Kondratov announced that according to the published information in the EU Official journal in October 2015, STC has completed introduction of changes in the Single

national control list. At the current stage it is necessary to make an expert review of the list and in this regards the speaker welcomed industry and representatives of research institutions to get involved into this process.

The second session of the round table meeting was opened with presentation of the Ukrainian Export Control Handbook. **Alexander Siver** introduced the writing team and explained the purpose of the publication, its role as a methodological tool in facilitating practical activities of the foreign economic entities. Therewith Mr. Siver outlined further directions of STC activities, in particular announced holding of a workshop “Changes and additions introduced into Ukrainian export control legislation and practical aspects of customs control and customs processing of goods” and publication of a specialized guidebook with the aim to provide detailed instructions for business entities for a stage-by-stage fulfillment of the export control procedures.

In the concluding part of the round table meeting participants had a chance to evaluate the event. As a result, almost all participating industry representatives pointed the topicality of the meeting, relevance from a standpoint of experience exchange in the field of export controls and comprehension of the steps taken towards European integration.

The usefulness of the event was confirmed by the participants feedback received from the filled evaluations. The most frequent proposals were to provide uniform terminology and definitions in European and Ukrainian legislation, in particular on the validity period of licenses, creating of the single electronic base of dual-use and military goods including enterprises – manufacturers, distributors and information on the end users; and publication of information materials at the STC’s website about legislative changes in the field of export control and relevant expert recommendations and opinions in this area.

Evaluations filled by the round table meeting participants are summarized in the table below.

1. Your proposals on introduction of changes into the normative and legal acts of Ukraine on the issues of export control.

- In the framework of harmonizing Ukrainian legislation with EU standards, uniform interpretation of terminology and definitions in the European legislation and in the Law of Ukraine №549 should be ensured.
- To increase validity period of the permits.
- To decrease application processing period.
- To introduce electronic applications and obtaining permits electronically.
- To provide licenses on a free of charge basis.
- Further study of EU legislation, in particular on the validity period of licenses in EU, the possibility of extending them depending on the contract terms, etc.
- To cancel the permit for import and to introduce "the Community General license", as in the EU, for export to "reliable" countries.
- To introduce changes into the Decree of the Cabinet of Ministers of Ukraine №86 of 28.01.2004.
- To provide simplified procedures for obtaining permits, but to leave the procedure of preliminary examination of goods in order to obtain algorithm for international transfers.
- To study the procedure of composing the lists of goods that are not included into the EU Single List and to determine the appropriateness of taking into account the relevant provisions for the national legislation of Ukraine.
- To specify the term "brokering" and other procedures regarding transfers of dual-use goods.
- To revise the list of controlled goods, particularly in the national control section (entry 5.A.3).

2. Which directions of cooperation with European partners are the most actual at the moment? Your opinion and proposals

- Technical assistance to hold workshops on export control issues in Ukraine.
- Implementation and application of the Ukrainian Single control list.
- In-depth study of the export control procedures in the EU Member-States and their implementation in the relevant legal acts of Ukraine.
- To conclude new international agreements on collaboration and cooperation.
- To strengthen control over the distribution of dual-use goods and to facilitate information exchange with European colleagues.

3. In your opinion, which aspects should be covered in future projects to improve export control of Ukraine?

- Simplification of the export control to ensure cooperation with European countries.
- Maximum adaptation of Ukraine's legislation to the EU standards.
- Creation of a unified electronic database of dual-use and military goods to include information on enterprises-producers, distributors and end users.
- Control of intangible transfers of technologies.
- Clear procedures for the use of electronic documents circulation.

- Simplification of a three-year reregistration procedure according to the commodity nomenclature.

4. In your opinion, which information and training measures should be undertaken to facilitate optimization of the commercial activities of Ukrainian industry?

- Training workshops and Internet conferences on a regular basis.
- Publication of information materials on the STC's website regarding changes in the export control legislation and relevant expert clarifications in this field.
- To resume regional training workshops for executives and specialists of industrial enterprises.
- To launch a specialized web-resource.
- To issue new publications and other educational materials on export control issues.

5. Your assessment of the event and its practical value in industrial activity?

- Excellent - 23 responses.
- The issues discussed at the event helped to understand the direction of working towards European integration in the field of export control - 19 responses.
- A very useful meeting - 18 responses.
- A useful event, it allows for the experience exchange and exchange of opinions regarding practical activities in export control area - 14 responses.
- Good - 13 responses.
- Very professional and important, but we need more time - 11 responses.
- This is a beginning of a long journey to improve the export control system of Ukraine - 8 responses.