

Section 7.

Consultative Committee

(1) The Consultative Committee for the export, import and transit of armaments shall be set up at the Ministry for Foreign Affairs. This Committee shall express its opinions to the Minister for Foreign Affairs for the purposes of issuing the permits referred to in s. 13 below.

(2) The Committee shall be appointed by Decree of the Minister of Foreign Affairs and shall comprise one representative of the Ministry of Foreign Affairs whose rank shall not be lower than that of a Minister Plenipotentiary, who shall chair it, and two representatives of the Ministry of the Interior, Defence and Foreign Trade, and one representative of the Ministries of Finance, Trade and Industry, State Shareholdings and the Environment. The same Decree shall appoint the alternates of all of the full members. An official of the Ministry of Foreign Affairs shall act as Secretary.

(3) Two experts appointed by the Minister of Foreign Affairs, jointly with the Minister of Industry and Trade, and the Minister of State Shareholdings, shall advise the Committee, which may also be advised on technical matters by other experts appointed case by case by the Chairman of the

Committee, after hearing the opinions of the members.

(4) The Committee shall be validly convened with a quorum of two-thirds of its members.

(5) The Committee shall be replaced every three years, and the members may be reappointed once only.

Section 8

The Armaments Production Coordination Office

(1) Within 120 days of the entry into force of this Law, an Office shall be set up at the Prime Minister's Office, with the task of supplying CISC with opinions, information and proposals -- within the framework of the general defence policy guidelines adopted by Parliament and by the Government -- relating to the national production of armaments, the problems, and the prospects in this area of production in relation to the developments of international agreements.

(2) The Office shall also contribute towards studying and identifying proposals for converting manufacturing companies. In particular, it shall identify the possibilities of using materials derived from the companies referred to in s.2 for non-military purposes, for the purposes of environmental protection, civil defence in the event of disasters, public health, agriculture, science and research, energy and other civilian applications.

(3) The Office shall be instituted by Decree of the Prime Minister issued pursuant to s. 17 of Law No. 400 of 23 August 1988. It shall consult experts nominated by trade union and employers organizations.

CHAPTER III

AUTHORIZATION TO NEGOTIATE

Section 9

Provisions Governing Contractual Negotiations

(1) The companies admitted to the Register referred in s. 3 shall notify the Minister of Foreign Affairs and the Minister of Defence whenever they begin contractual negotiations for the export, import and transit of armaments.

(2) Within 60 days thereafter, the Minister of Foreign Affairs, jointly with the Minister of Defence, may prohibit further negotiations.

(3) The Minister may also lay down conditions or limitations on these activities bearing in mind the principles referred to in this Law and the guidelines referred to s. 1, as well as on the grounds of national interest.

(4) The beginning of the contractual negotiations, for the purposes of the export, import and transit of armaments from and to NATO and WEU countries, or the operations covered by specific inter-governmental agreements must be notified to

the Ministry of Defence which, within 30 days of receiving the communication, may lay down conditions or restrictions on the conclusion of the negotiations.

(5) Clearance by the Minister of Defence alone shall be required for imports and exports of the following:

a) spare parts, components and services for maintaining and repairing materials forming the subject matter of previously authorized contracts, in which specific provisions were not made for them or which may have lapsed;

b) materials already lawfully exported and which need to be re-imported or temporarily re-exported, for repair or maintenance, to other countries;

c) materials that have been imported, and exported where relevant, and which have to be returned to the manufacturers because of defects, unsuitability, or for similar reasons;

d) equipment for temporary export or import for the purposes of installing, commissioning, or testing materials already authorized for import or export, but for which the relative documents made no specific provisions;

e) armaments for the purposes of exhibitions, or technical demonstrations; their manuals and technical descriptions, and any other material required for their presentation, as well as samples to be used for bids and tenders, and evaluation trials.

(6) The Ministers of Foreign Affairs and Defence, in relation to the activities referred to in this section, may call upon the services of the Committee indicated in s. 7.

(7) Refusal to grant a permit and the imposition of any conditions or limitations must be motivated, and the reasons therefor shall be made known to the applicant company.

Section 10

The Effects and the Duration of Authorization to Negotiate

(1) Authorization to initiate the contractual negotiations referred to in s. 9 shall not confer on the applicant company any right to the subsequent authorization or permit referred to in s. 13, and may be subject to restrictions or conditions. Any authorization shall be valid for three years and may be renewed, dependent upon progress with the negotiations.

(2) Authorization may be suspended or revoked as provided by s. 15 below.

CHAPTER IV

IMPORT, EXPORT AND TRANSIT PERMITS

Section 11

Application for a Permit

(1) In respect of the materials governed by this Law, the application for a permit to export, import, issue licences

and transit shall be filed with the Ministry of Foreign of Affairs, which shall notify the Ministry of Foreign Trade thereof. The application shall be signed by the legal representative or a person designated by him for this purpose.

(2) The application shall indicate the following:

a) the type and quantity of the armaments, forming the subject matter of the transaction. If the object is spare parts, the type of materials to which they belong shall be indicated;

b) the value of the contract and the final delivery terms, even if deliveries are in batches under the terms of the contract, together with the conditions for delivering spare parts, in the case of maintenance services or a provision of other technical assistance services;

c) the amount and compensation paid to intermediaries, as well as the statement referred to in ss. 12 and 20 of Presidential Decree No. 454 of 29 September 1987;

d) the final destination country for the material, or any other countries, agencies, authorities, companies and any other individuals of intermediate or final destination, pursuant to subsection (3)c);

e) the name of the addressee (Government authority, public agency or authorized company);

f) any financial obligations to the State regarding

property rights, patent rights or similar;

g) any commitments relating to industrial compensation;

h) details regarding the involvement of Government departments in the implementation of the agreed operation.

(3) The application for an export permit shall also include the following:

a) a copy of the authorization to negotiate, or the clearance, where required;

b) a copy of the contract or the sub-contract for the supply or purchase or transport, in relation to the part referring to the commercial and financial terms of the operation; if the contract is written in a foreign language, a translated copy in Italian shall be included;

c) (i) an import certificate issued by the Governmental authorities of the addressee State in the case of companies which have reciprocal agreements with Italy governing the control of arms exports; (ii) in the case of all other countries, an "end-use certificate" issued by the governmental authorities of the address country, certifying that the material is imported for its own use and shall not be re-exported without the prior authorization of the Italian authorities having responsibility therefor.

(4) The end-use certificate must be authenticated by the Italian diplomatic or consular authorities accredited to the issuing country.

(5) The documentation referred to in this section shall not be required for operations governed by s. 9(4) and (5).

Section 12

Inquiry Phase

(1) The Ministry of Foreign Affairs shall carry out an inquiry relating to the issue of the permit referred to in s. 13. Having ascertained that all the prescribed documentation has been submitted with the application, shall submit it to the Committee referred to in s. 7, save where otherwise provided by ss. 9(4) and (5).

(2) After having ascertained that the declared purposes of the operation are consistent with the provisions of this law and with the instructions issued by CISC pursuant to s. 6, the Committee shall express its opinion to the Minister of Foreign Affairs.

(3) The Minister of Foreign Affairs may request a further examination and investigation by CISC in respect of operations deemed to be of specific political importance.

Section 13

Authorization

(1) The Minister of Foreign Affairs, after consultation with the Committee referred to in s. 7, jointly with the Minister of Finance, shall authorize the export and import, whether final or temporary, and the transit of armaments, and the

assignment of industrial licences abroad for the production of said armaments and the re-export thereof by the importing countries. Any refusal to grant authorization must be motivated.

(2) The authorization referred to subsection (1) shall be issued by the Minister of Foreign Affairs without the prior opinion of the Committee referred in s. 7 for the following operations:

a) those provided by s.9(4);

b) those which have clearance for contractual negotiations referred to in s. 9(5).

(3) The Governmental departments concerned shall be notified of the authorization issued.

(4) After 60 days from the date on which the application for authorization referred to in s. 11 has been submitted, if the authorization has not been issued and no decision has been notified to the applicant, the company concerned may address the CISD which shall issue a final decision.

(5) Authorization may not be issued if the application is incomplete or if any of the documentation referred to in ss.11(2) and (3) is missing. To this end, the Minister of Foreign Affairs shall ask the applicant to supply the information or documentation which is missing or incomplete as provided by this Law.

(6) To obtain the authorization to export specific

components and spare parts of armaments, the import certificate issued by the Government authorities of the first importing country to one of its own companies shall be submitted therewith, provided that the latter company has been authorized by its government to manufacture and market armaments, save the right to request the final use certificate or some equivalent document in the case of countries which do not issue import certificates.

Section 14

Term for the Operations

(1) The operations provided by this Law must be effected within the terms indicated in the authorization or permit issued. The terms may be extended for periods not exceeding 24 months if so requested in a reasoned application that shall be submitted no later than the date of expiry by the Minister of Foreign Affairs, after having heard the opinion of the Committee referred to in s. 7.

(2) A copy of the authorization or permits and of the extensions thereof shall be sent immediately to the administrations represented on the Committee referred to in s.7.

(3) Authorization may not be issued for a shorter period than that relating to the performance of the contract, which may be extended independent of the deliveries and the

remaining contractual operations. Where no contractual performance deadlines are stipulated, the authorization or permit shall be valid for at least 18 months, and may be extended if necessary.

Section 15

Suspension or Withdrawal of Authorization

(1) The authorization or permit referred to in ss. 9 and 13 shall be suspended or revoked whenever the conditions prescribed for their issuance no longer obtain.

(2) The suspension or withdrawal of authorization referred to in s.9 shall be effected by decree of the Minister of Defence by agreement with the Minister of Foreign Affairs.

(3) The suspension or withdrawal of the authorization referred to in s.13 shall be effected by decree of the Minister of Foreign Affairs, after consultation with CISD.

(4) The decisions referred to in subsections (2) and (3) above shall be notified to the Consultative Committee referred to in s.7.

(5) The insurance cover provided by Law 227 of 24 May 1977 shall also extend to cases in which the authorization referred to in s.13 is withdrawn, suspended or not extended for reasons which are independent of the will of the operator concerned.

(6) The withdrawal or suspension of the authorization

referred to in s.13, or the failure to renew or extend it during the performance of a contract shall, for the purposes of s. 14(6) of Law No. 227 of 24 May 1977, be construed as causes that are not dependent upon breaches of contract on the part of the national operator for the purpose of payment of the guarantees and the failure or delay in repaying deposits or advanced payments loaned or effected for the reasons indicated under s.15(m) of the aforementioned Law.

(7) In exceptional cases, CISC may temporarily ban the export of weapons referred to in s.1(11) to countries, of which a list shall be submitted to the Ministry of Foreign Affairs, in respect of which it deems it appropriate to adopt preventive measures.

(8) This ban shall be lifted by CISC itself only when the causes leading to it cease to obtain.

Section 16

Transit and Entry into Italian Territory of Armaments

Subject to Police Regulations

(1) The provisions of this Law shall not apply to cases in which armaments, as defined in s.2, cross Italian territory as part of commercial transactions by non-residents.

(2) In these cases and in any other case in which the armaments referred to in subsection (1) above enter Italian territory, and do not need to pass the customs line for any

reason whatsoever and are bound for other countries, provided that the materials are recorded on the customs manifest only the provisions of ss. 28(3) and (4) of the Public Security Consolidation Act, adopted by Royal Decree No. 773 of 18 June 1931, and Article 40 of the Regulations for its implementation, adopted by Royal Decree No. 635 of 6 May 1940 shall apply.

(3) These provisions, excluding Article 40 of the aforementioned regulations, shall also apply to weapons forming part of on-board equipment as specified in the official documents.

(4) The prefect may refuse to authorize the entry into Italian territory of the materials and weapons mentioned above for reasons of public order or public security, promptly notifying the Ministries of Foreign Affairs and Defence thereof, or for reasons relating to State security after having consulted the aforementioned Ministries.

CHAPTER V

OBLIGATIONS ON COMPANIES

Section 17

Fee for Admission to the National Register

(1) In order to obtain admission to the National Register referred to in s.3, applicants must pay an annual fee in the amount and following the procedures to be laid down by

decree of the Minister of Defence, jointly with the Minister of the Treasury.

(2) The decree shall be published in the Gazzetta Ufficiale by 31st October of the year preceding the year to which the law refers.

Section 18

Armaments List

(1) Companies exporting the armaments governed by this Law shall, within 120 days of the entry into force of the decree referred to s. 2(3), submit to the Commission referred to in s. 4 the list of the armaments to be exported, indicating for each one of them the security classification, if any, previously imposed by the Ministry of Defence. Following the same criteria, any revisions of the list shall also be submitted to the same Ministry.

Section 19

Notification Relating to Carriers and Shippers

(1) For operations for which the exporter is required to ship and deliver to their destination any armaments, the exporters shall obtain from the shippers and carriers all relevant information concerning the mode of transport and the routing, and any variations that may have occurred en route. The relevant documents must be kept in the records of

the exporter for a period of ten years.

(2) For all operations for which the delivery is "ex works" or "ex warehouse", exporters are required to simultaneously notify the Ministers of Foreign Affairs, Defence, the Interior and Finance of the date and the procedures for the delivery, together with any other relevant information on the shipper or the carrier responsible for the operation.

(3) This communication shall be made by the legal representative or a person designated by him, in advance and at all events no later than three days from the date of receipt of the notification that the addressee or the carrier commissioned by him has collected the shipment.

(4) The provisions of this section shall not apply to exports effected on behalf of the Government.

Section 20

Use of Authorization and Permits

(1) Any company authorized to export or cause armaments to transit through Italy shall be required to perform the following, except for operations performed on behalf of the Government:

a) promptly notify the Ministry of Foreign Affairs of the conclusion, including the partial conclusion, of authorized operations;

b) send within 180 days of the conclusion of the

operations referred to in a) above, to the Ministry of Foreign Affairs: the verification forms, or the customs docket evidencing the entry into the addressee's country of the shipment, or the documentation certifying reception by the importer; or equivalent documentation issued by the local government authorities.

(2) A further 90 days may also be granted by the Minister of Foreign Affairs, after consultative the Consultative Committee referred to in s.7, if there are good and documented grounds therefor, at the request of the exporter, which request shall be submitted at least 30 days before the expiry of the original deadline.

(3) If the Italian exporter declares, with justification, that it is impossible to obtain the documents from the foreign authorities referred to in subsection (1)(b), the Committee referred to in s. 7 shall express its opinion relating to the reasons for the justification thereof. Until the Committee referred to in s. 7 has expressed its opinion on the motives for the justification, no extensions to the authorization or permit may be entertained.

(4) In the event of a delay in submitting the documentation referred to in subsection (1), and so long as this delay continues, save where justified as provided by subsection (3), no extensions to the authorization or permit to which the Commission refers may be extended.

Section 21

Workshops, Study Courses and Visits

(1) The office of the Prime Minister, after consulting the Minister of Defence and at the request of the company concerned, may authorize the holding of workshops, and study courses and visits by Italian nationals and foreign nationals in Italy, which deal with matters relating to the products covered by security classification.

Section 22

Prohibition on Conferring Offices

(1) Civil servants and military personnel holding any administrative functions connected with the implementation of this law in the two-year period prior to the cessation of their employment may not, throughout a period of three years following the cessation of employment, for whatever reason, become directors, chairmen, deputy chairmen, managing director, sole director or general manager, or act as consultants to companies working in the armaments sector, save where such consultancy functions are specifically technical-operational relating to the design or testing operations.

(2) Companies infringing the provisions of subsection (1) shall be suspended from the National Register referred in s.3 for two years.

CHAPTER VI

PENALTIES

Section 23

Untrue Statements in the Documentation

(1) Any person who, in any documentation submitted pursuant to the provisions of this Law, deliberately makes any untrue statements therein relating to the issuance of the authorization provided by s.13 for its renewal, shall be punished with a term of imprisonment of between two and six years, or a fine of between one-tenth and three-tenths of the value of the contract, in the event that the authorization is issued.

(2) If the untrue statements are material to obtaining admission to the National Register referred to in s. 3, or to the obtaining of clearance provided by s. 9(5), the fine shall be between three and three hundred million lire, save where a more serious offence is committed.

Section 24

Failure to Comply with Administrative Regulations

(1) Anyone who exports armaments or causes them to transit in violation of the delivery terms to the destination indicated in the request for authorization referred to in s.13, save where the offence is more serious, shall be punished with a term of imprisonment of up to five years, or

shall be fined in an amount of between two and five-tenths of the value of the contract.

Section 25

Lack of Authorization

(1) Save where a more serious crime is committed, anyone who exports, imports, or causes to transit any armaments covered by the decrees referred to in s.2(3), without the authorization provided in s.13, shall be liable to a term of imprisonment of between three and twelve years, or a fine of between five and five hundred million lire.

(2) Anyone who initiates negotiations in violation of the provisions of s. 9 shall be liable to a term of imprisonment of up to four years, or a fine of between five and two hundred and fifty million lire.

(3) Any armaments which are not accompanied by the prescribed documents and are identified by the Italian authorities delegated thereto as being bound for export shall be confiscated.

Section 26

Compulsory Notification by Judicial Authorities

(1) The judicial authority that initiates proceedings for the offences provided by ss.23, 24, and 25 shall immediately notify the Minister of Foreign Affairs and the Minister of

Defence so that the appropriate measures may be taken within their respective spheres of competence.

Section 27

Provisions Governing Banking Transactions

(1) All banking transactions relating to the import, export and transit of armaments as defined in s.2 shall be notified to the Minister of the Treasury.

(2) The Minister of the Treasury shall, within 30 days of notification, authorize the banking transactions to proceed as provided under this Law.

(3) The report to Parliament referred to in s. 3 must contain a chapter on the activities of the banks operating on Italian territory in the field indicated in subsection (1).

CHAPTER VII

FINAL AND TRANSITIONAL PROVISIONS

Section 28

Transitional Provisions

(1) Until the decree referred to in s. 2(3) is issued, the present statutory provisions governing the materials listed in the "export table" relating to armaments shall remain in force.

(2) Until the institution of the National Register referred

to in s. 3, and of the Consultative Committee referred to in s. 7, the provisions of s. 3(2) shall not apply, and the present statutory provisions shall remain effective.

(3) Any authorization effective when this Law comes into force shall remain effective.

(4) With regard to the weapons and materials mentioned in s. 1(11), the licence of the Chief of Police provided by s. 31 of the Consolidation Act on Public Security adopted by Royal Decree No. 771 of 18 June 1931, shall be replaced by the licence of the Minister of Foreign Affairs, acting jointly with the Minister of Finance. The Minister of Foreign Trade shall issue the regulations for implementation.

Section 29

Regulations for Implementation.

(1) Within 120 days of the entry into force of this Law, the Prime Minister shall issue a decree pursuant to s. 17 of Law No. 400 of 23 August 1988, containing the regulations governing the implementation thereof.

Section 30

Staff Secondment

(1) For the performance of the activities connected with the issuance of the authorization and permits provided by this Law, the regulations for implementation referred to in s.29

shall, pursuant to Articles 56 et seq. of the Presidential Decree No. 3 of 10 January 1957, lay down the provisions governing the secondment to the Ministry of Foreign Affairs of personnel from other Government departments.

Section 31

Savings and Repeals

(1) Any provisions in the Regulations for implementing Public Security Consolidation Act approved by Royal Decree No. 635 of 6 May 1940, as subsequently amended, Law No. 895 of 2 October 1967, Law No. 497 of 14 October 1974, and Law No. 110 of 18 April 1975, shall remain in force where they are not incompatible with the provisions of this Law.

(2) In the Schedule to Royal Decree No. 1161 of 11 July 1941, paragraph 6 (equipment, stocks, and supplies contracted by the armed forces) the following words are hereby repealed: "contracts and procurement of war materiel, or materiel in any way relating to the armed forces and the country's military efficiency, both with private companies, or abroad, related contractual information, progress and the results of deliveries. The shipment and assignment of war materiel abroad, both by military administrations and private industry".

(3) The following words are repealed from the schedule to Royal Decree No. 1161 of 11 July 1941, in paragraph 8 (civil

factories producing war materiel and civil plants for energy production): "supplies and stocks of raw materials and semi-processed goods; the consumption, import and export of raw materials, semi-processed goods and similar products in any way related to the production of war materiel, in general, or in particular, for every factory, as well as orders, contracts, contractual clauses, etc."

(4) Any other statutory provisions incompatible with this Law are hereby repealed.

This Law, bearing the Seal of State, shall be recorded in the "Raccolta ufficiale degli atti normativi della Repubblica Italiana". It is binding upon all, and shall be enforced as a Law of the State.

Done in Rome, on 9 July 1990.

COSSIGA

ANDREOTTI, Prime Minister,

MARTINAZZOLI, Minister of Defence

Passed by the Minister of Justice.

NOTES:

These notes have been drafted pursuant to s. 10(2) and (3) of the Consolidation Act approved by Presidential Decree No. 1092 of 28 December 1985, with the sole purpose of facilitating the reading of the provisions of the Law which