

Law No. 185 of 9 July 1990

New Provisions Governing the Export, Import and Transit of
Armaments

With the approval of the Chamber of Deputies and the Senate
of the Republic,

THE PRESIDENT OF THE REPUBLIC

HEREBY PROMULGATES

the following Law:

CHAPTER 1

GENERAL PROVISIONS

Section 1.

Central Government Control.

I (1) The import, export and transit of armaments and the assignment of production licences for them must be in compliance with Italy's foreign and defence policies. These operations are regulated by the Government according to the principles of the Constitution of the Republic which rejects war as a means of solving international conflicts.

(2) The export, import and transit of the armaments, within the meaning of Section 2, and the assignment of the relevant production licences are subject to authorization and supervision by Central Government.

(3) The Government shall issue appropriate measures in order to support the gradual differentiation of production and to convert the manufacturing companies operating in the

defence sectors for civilian production.

(4) The export and transit operations are only permitted if they are effected with foreign governments or with companies authorized by the government of the recipient country.

(5) The export and transit of armaments, and the assignment of the related production licences, are forbidden whenever they are contrast with the Constitution, Italy's international commitments and the fundamental interests of State security, combatting terrorism and maintaining good relations with other countries, and when there are inadequate guarantees relating to the final destination of the materiel.

(6) The export and transit of armaments are also forbidden to:

a) countries in a state of armed conflict, in violation of the principles of Article 51 of the UN Charter, except where Italy is bound by her international obligations or where otherwise resolved by the Council of Ministers, after hearing the opinion of both Chambers;

b) countries whose policies are in contrast to the principles of Article 11 of the Italian Constitution;

c) countries against which a total or partial embargo has been declared on arms supplies by the United Nations;

d) countries whose governments are responsible for proven violations of international human rights conventions;

e) countries which, while in receipt of aid from Italy pursuant to Law 49 of 26 February 1987, appropriate resources to their military budget which exceed the needs of their own country's defence; in respect of these countries, Italy shall suspend further aid pursuant to that law, with the exception of aid to the people in the event of natural disasters.

(7) The manufacture, import, export and transit of biological, chemical and nuclear weapons are prohibited, as is research designed for their production, or the provision of the relevant technology. This also applies to instruments and technologies specifically designed for the construction of the aforementioned weapons and any others which might be used to manipulate man and the biosphere for military purposes.

(8) The permanent or temporary import of armaments is forbidden, except the following:

a) imports directly effected by the Government or on the Government's behalf in order to implement the weapons and equipment programmes for the armed forces and the police, which may be approved directly by the customs authorities;

b) imports effected by persons registered with the national companies register referred to in s.3, after having received the authorization provided by s.13;

c) temporary imports effected by persons registered with the national companies register provided in s. 3, for the revision of armaments previously exported;

d) imports effected by public agencies, within their respective spheres of competence, in relation to the exercise of historical or cultural activities, after having received the police authority provided by s. 8 of Law 110 of 18 April 1975;

e) temporary imports by foreign companies attending trade fairs, exhibitions and demonstrations, provided by that they are in receipt of authorization from the Ministry of the Interior, which shall be issued with the consent of the Ministry of Defence.

(9) The provisions of this law shall not apply to the following:

a) temporary exports directly effected by, or on behalf of the Central Government, to implement its own arms and equipment programmes for the armed forces and police;

b) exports or concessions between governments for the purposes of military aid, under the terms of international agreements;

c) the transit of armaments and equipment to meet the needs of allied countries, as defined in the Convention on the Status of NATO Forces, provided that waivers to Articles VI, XI, XII, XIII and XIV of the Convention between the

States signatories to the North Atlantic Treaty, ratified Law 1335 of 30 November 1955, are not invoked for any reason whatsoever.

(10) At all events, temporary exports referred in (9)(a) above are forbidden to countries referred to in subsection (6) of this section.

(11) This Law shall not apply to sports weapons and hunting weapons and their ammunition; cartridges for industrial use and flares and smoke cartridges; ordinary weapons and ammunition governed by s. 2 of Law 110 of 18 April 1975, and short firearms, provided they are not automatic; reproductions of antique weapons, and explosives other than those designed for military purposes.

Section 2.

Armaments

(1) For the purposes of this Law, armaments shall be considered to include all those materials which, on account of their technical and construction and design features and requirements may be considered to have been manufactured mainly for military use, or for use by armies or by the police.

(2) The armaments referred to in (1) are classified into the following categories:

a) nuclear, biological and chemical weapons;

- b) automatic firearms and their ammunition;
- c) medium and large calibre arms and weapons and their ammunition as specified in the list referred to in (3);
- d) bombs, naval mines, land mines, rockets, missiles and torpedoes;
- e) tanks and vehicles specially built for military use;
- f) ships and their equipment specifically built for military uses;
- g) aircraft and helicopters and their equipment specially built for military use;
- h) gunpowder, explosives, propellants, except those to be used for weapons referred to in s.1(11);
- i) electronic, electro-optical and photographic systems or equipment, specially built for military use;
- j) special armoured materiel built specifically for military uses;
- k) specific materiel for military training,
- l) machines, equipment and devices built for the manufacture, testing and control of weapons and munitions;
- m) special equipment designed specifically for military uses.

(3) The list of the armaments included in the categories referred in subsection (2) above shall be approved by decree of the Minister of Defence jointly with the Ministers of Foreign Affairs, the Interior, Finance, Industry and Trade,

State Shareholdings and Foreign Trade, which shall be issued within 180 days of the date of entry into effect of this Law. The identification of the new categories and the updating of the list of armaments shall be effected by decree to be adopted in the aforementioned forms relating to the trends in industrial production, technological development, and international agreements to which Italy is a signatory state.

(4) For the purposes of this Law the following shall be considered armaments:

a) spare parts and specific components of the armaments mentioned in (2) above, identified in the list referred to in (3) solely for the purposes of export;

b) drawings, designs and any other type of documentation and information necessary for the manufacture, use and maintenance of the armaments referred to in (2) above, solely with regard to export and transit.

(5) This Law shall also apply to the granting of licences for the manufacture of the armaments referred to in (2) and (4)(a), outside Italian territory.

(6) The provision of services for training and maintenance, to be effected in Italy or abroad, if not already authorized simultaneously with the transfer of the armaments in question, shall only require clearance from the Minister of Defence, after consultation with the Ministers of Foreign

Affairs and the Interior, provided that it is the continuation of a lawfully authorized agreement already existing.

(7) The conversion or adaptation of vehicles and materials for civilian use supplied by Italy or owned by the principal in Italy or abroad which, through the intervention of Italian companies, produces operational variations thereto for the purpose of making the vehicles or materials useful in war. shall be authorized pursuant to the provisions of this Law.

Section 3.

National Companies Register

(1) The National Register of Companies and consortia of companies operating in the field of the design, manufacture, import, export, maintenance and work in any way connected with armaments, classified in terms of the functions for which registration may be accepted, shall be kept by the Ministry of Defence, Office of the Secretary-General - National Armaments Director. Copies of this National Register, and updated versions of it, shall be sent for the purposes of this Law to the Ministers of Foreign Affairs, the Interior, Finance, Industry and Trade, and Foreign Trade.

(2) Only companies admitted to in the National Register may be given authorization to initiate contractual negotiations

and effect export, import or transit operations involving armaments.

(3) Admission to the Register referred to in (1) above replaces the authorization referred to in s. 28(2) of the Public Security Laws approved by Royal Decree No. 773 of 18 June 1931, notwithstanding the requisites in s. 9 of Law 110 of 18 April 1975.

(4) Applications for registration with the National Register, together with all the documentation required to demonstrate eligibility following the procedures to be laid down by decree of the Minister of Defence, jointly with the Ministers of Foreign Affairs, and Foreign Trade, shall be submitted by interested companies, provided that they possess the following subjective requisites;

a) in the case of one-man firms or partnerships, the proprietor or legal representative shall be of Italian nationality, or be resident in Italy, provided that he is a national of a country with which Italy has a Treaty of judicial cooperation;

b) in the case of limited companies, provided that they have been incorporated in Italy and perform in Italy their activities relating to the materials subject to control under this Law, residents in Italy on the part of representatives of the company for the purposes of this Law, and are Italian nationals or nationals of countries with

which Italy has a judicial cooperation agreement.

(5) Consortia of companies comprising one or more companies registered with the National Companies Register may also be registered, provided that none of the situations provided by subsections (8), (9), (10), (11) and (12) apply to any of the companies belonging to the consortium, and provided that the legal representative of the consortium is in possession of the subjective eligibility requisites referred to in subsection (4)(b) above.

(6) Industrial consortia promoted as a result of specific inter-governmental understandings or in any way authorized by the authorities of the Italian State shall also be automatically registered in the National Companies Register.

(7) Companies in the National Register shall communicate any change in the names of the subjects referred to in subsection (4)(a) and (b), and subsection (5), any transfer of the registered office, the establishment of new offices and the conversion or winding up of the company, to the Ministry of Defence.

(8) Companies declared bankrupt may not register, and if already registered, their registration shall lapse.

(9) The provisions regarding suspension, expiry and non-eligibility for registration provided by Law 575 of 31 May 1965, and s. 24 of Law 646 of 13 September 1982 shall apply.

(10) Any companies whose representatives indicated in

subsection (4)(b) have been found to be members of secret associations, past or present, pursuant to s. 1 of Law 17 of 25 January 1982, or who have been found guilty of offences provided by Law 645 of 20 June 1952, or of the Public Security Consolidation Law approved by Royal Decree 773 of 18 June 1931, as subsequently amended, Law 110 of 18 April 1975, and the provisions of this Law, may not register, and if registered said registration shall automatically lapse.

(11) Any companies whose legal representatives have been found guilty of the crime of illegal trading in armaments may not be registered, and if registered said registration shall automatically lapse.

(12) Any companies which, in violation of the prohibition referred to in s. 22, engage former civil servants with the functions therein specified within the three-year period following the date on which they ceased to be civil servants, may not be registered, or if already registered said registration shall be suspended.

(13) If the conditions referred to in subsections (8), (9), (10), (11) and (12) obtain, the company shall be suspended from or shall be struck off the National Register by Decree of the Minister of Defence which shall be communicated to the Ministries indicated in subsection (1).

(14) Once the impediment to registration has been removed, the company may registered, and if it has been written off,

it may be re-registered.

(15) While awaiting the final decision relating to the impediments referred to in subsections (8), (9), (10), (11) and (12) the company or consortium of companies may continue to operate normally within the limits of the authorization granted to it or and any currently valid authorization, save any authorization in relation to which the company is under investigation. No new authorization shall be issued to such companies.

Section 4.

Registration with the National Companies Register

(1) The procedures for admission to the Register shall be laid down by decree of the Minister of Defence as provided by s. 17 of Law No. 400 of 23 August 1988.

(2) In order to keep the National Register referred in s. 3, a Commission shall be appointed at the Ministry of Defence, chaired by a magistrate of the 'Consiglio di Stato', comprising one representative of the Ministry of Foreign Affairs, the Ministry of the Interior, the Ministry of Industry and Trade, and the Ministry of Foreign Trade.

(3) The Commission shall have the following responsibilities:

a) to resolve on possession of the eligibility requisites referred to in s. 3(4) relating to registration

or re-registration;

b) performing the three-yearly review of the Register;

c) to report to the judicial authorities for the purposes of imposing the penalties for offences concerning the Register;

d) drafting an opinion for submission to the Minister regarding the striking-off and suspension of companies from the Register.

(4) The operation of the Commission shall be governed by Decree of the Minister of Defence, issued pursuant to s. 17 of Law 400 of 23 August 1988.

(5) All expenses relating to the operation of the Commission shall be met from the ordinary appropriations to the Ministry of Defence budget.

Section 5

Report to Parliament

(1) The Prime Minister shall report to Parliament by 31st March each year on the operations authorized and performed up to 31st December of the previous year.

(2) The Ministers of Foreign Affairs, the Interior, Defence, Finance, Industry and Trade, State Shareholdings and Foreign Trade, each within their respective sphere of jurisdiction, shall issue annual reports on the activities under this Law to the Prime Minister, who shall annex them to his report to

Parliament referred to in subsection (1).

(3) The reports referred to in subsection (1) shall contain an analytical breakdown by type, quantity and cash values, of all the objects relating to contractually defined operations, together with an annual progress report on exports, imports and the transit of armaments and on the export of services subject to control and authorization provided by this law. This report shall contain the list of the countries indicated in the final authorization, the list of any permits that have been withdrawn as being in breach of the final destination clause and of the prohibitions set forth in s. 1 and 15, together with the list of any registrations, suspensions or removals from the National Register referred to in s. 3.

CHAPTER II

COORDINATION AND SUPERVISION BODIES

Section 6

Inter-Departmental Committee for the Trade in Armaments for Defence

(1) The Inter-Departmental Committee for the Trade in Armaments for Defence (CISD) shall be instituted at the Prime Minister's Office.

(2) The Committee shall be chaired by the Prime Minister, and shall comprise the Ministers of Foreign Affairs, the

Interior, Finance, Treasury, Defence, Trade and Industry, State Shareholdings and Foreign Trade. Other interested ministers may be invited to attend the meetings of the Committee.

(3) In respect of the principles referred to in s. 1 and the treaties and international commitments by which Italy is bound, and in implementation of the Government's foreign and defence policies, after having appraised the technological and industrial development needs connected with the defence policy and the policy for arms production, CISD shall lay down the general guidelines for trading policies in the defence field, and issue general instructions governing the import, export and transit of armaments, and in the cases provided by this Law, shall supervise all the activities of the bodies created for the purposes of implementing this Law.

(4) The guidelines and instructions laid down by the Committee shall be tabled before Parliament.

(5) The CISD shall also be responsible for identifying the countries for which the prohibitions referred to in s. 1(6) apply.

(6) CISD shall receive information regarding the respect of human rights, from any bodies which include organizations recognized by the United Nations and the EEC, and from non-governmental organizations recognized pursuant to s. 28 of