

NATIONAL REPORT BY FINLAND

On the implementation of the International Instrument to Enable States to Identify and Trace in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons (International Tracing Instrument) and the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects and

PART ONE

Implementation of the International Instrument to Enable States to Identify and Trace in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons (International Tracing Instrument)

- (i) Measures that have been undertaken to duly mark all small arms and light weapons (SALW) in the possession of government armed and security forces for their own use? (ODA/02-2008/SALW-BMS);*
- (iii) Measures that have been put in place to ensure that accurate and comprehensive records are established for all marked SALW within their territory, in accordance with the relevant paragraphs of the International Tracing Instrument? (ODA/02-2008/SALW-BMS);*
- (iv) Existing or new regulations and administrative procedures that have been put in place in order to ensure the effective implementation of the International Tracing Instrument? (ODA/02-2008/SALW-BMS);*
- (v) Information on national marking practices, in accordance with the recommendations contained in para 31(b) of the International Tracing Instrument. (ODA/02-2008/SALW-BMS);*

In Finland each small arm and light weapon is marked at the time of manufacture. This marking of small arms and small arms components with serial numbers or another marking suitable for the identification of the object is unique and identifies the country of manufacture. It also provides information that enables the national authorities in Finland to identify the manufacturer and serial number to enable the competent authorities to identify and trace each arm.

Each batch of ammunition and their packaging is marked at the time of manufacture. The marking of the packaging of ammunition is unique and identifies the country of manufacture, the manufacturer and the batch number.

Finland keeps comprehensive and accurate register for at least ten years on the manufacture, holding and transfer of SALW and ammunition falling under its jurisdiction and control. These records are organised and maintained to ensure that accurate information can be promptly retrieved and collated by the competent national authority in Finland.

All documentation on export licenses granted by the Ministry of Defence is kept permanently.

All firearms in the possession of the police bear a marking making their identification. There is a separate register for firearms in the possession of the police.

A firearms dealer manufacturing firearms, firearm components, cartridges and especially dangerous projectiles shall keep a register. The register of the manufacturer shall include information as follows:

- 1) the amount, type, mode of operation, calibre, the manufacturer's mark, model or number as well as the serial number of the manufactured firearms;
- 2) the amount, type, calibre of the barrel, the manufacturer's mark, model or number as well as the serial number of the firearm components manufactured if known;
- 3) the amount, type and calibre of the cartridges and especially dangerous projectiles manufactured;
- 4) the amount, type and content of the gas sprays manufactured;
- 5) the name of the transferee;
- 6) the time of the transfer; and
- 7) information concerning the transferee's trade permits for dealing.

A dealer shall on request present the register to the police and convey a record of it to the permit authority on the permit's expiration or revocation. The register shall be conserved for at least ten years after the last entry.

A dealer is under obligation to employ a person in charge of the firearms' dealing. This person is responsible for the operations under the Firearms Act and related degrees together with the provisions of the permit. The person in charge by the Police Authority which issues the trade permit for dealing.

Registers, books, storages with storage facilities of dealers are examined by police in the territory falling under their competence. In carrying out the examination the police are entitled to have access to the dealer's records. This also applies to the facilities in which the firearms with their components, cartridges and especially dangerous projectiles are stored.

In cases involving international transfers, the following information is recorded: the mark, the issuance and expiration date of the appropriate licenses or authorisation, the country of export, the country of import, the transit countries if any, and the final recipient and the description and quantity of the articles.

Finland has joined the The Convention of 1 July 1969 on Reciprocal Recognition of Proof marks on Small Arms, which set standards on the content of the markings of firearms. The manufacturers in Finland have not developed any special measures against removal or alterations of markings.

Finland has, as a Member State of the European Union, actively participated in the amendment procedures of the Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons. Directive of the European Parliament and the Council amending the above mentioned Council Directive, entered into force 28 July 2008. The Directive aims at enhancing tracing of firearms within the European Union. Finland is renewing its legislation to conform the requirements of the new directive.

PART TWO

Implementation of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects and

A.) National level

1. National coordination agency

1.1. National Coordination Group of SALW Experts

The National Coordination Group of SALW experts includes representatives of the ministries involved with arms control, disarmament and non-proliferation of SALW and the representatives of national non-governmental organisations dealing with the issue. The group discusses inter alia the Finnish policy concerning SALW, implementation of the national, regional and global provisions and regulations and bilateral assistance to SALW projects. The group meets regularly under the Ministry for Foreign Affairs and has representatives from the Ministry of Defence and Ministry of Interior. The representatives from other authorities (customs, border control etc.) are invited to participate when necessary. Non-governmental organisations are invited regularly.

1.2. The Advisory Committee for Exports of Defence Materiel

The Advisory Committee for Exports of Defence Materiel under the Ministry of Defence's Resource Policy Department is the corresponding inter-agency body with a mandate to advise on individual licence applications, prior enquiries and the definition of defence materiel for export of military items. The following authorities are represented in the Committee: the Ministry for Foreign Affairs (the Political Department and the Department for External Economic Relations), the Ministry of Defence, Defence Staff, the Ministry of the Interior (the Police Department), the National Board of Customs and the Security Police.

2. National point of contact

National Point of contact in Finland is the Ministry for Foreign Affairs, Political Department, Unit for Arms Control, Disarmament and Non-proliferation. Contact information is POL-20@formin.fi or MFA, Unit for Arms Control, P.O. Box 420, 00023 Government, Finland, fax +358 9 1605 6066.

3. Legislation, regulations, administrative procedures

i) What national laws, regulations and administrative procedures exist to exercise effective control over SALW in the following areas? (II.2)

- *production*
- *export*
- *import*
- *transit*
- *retransfer*

ii) What national measures exist to prevent the manufacture, stockpiling, transfer and possession of unmarked or inadequately marked SALW? How have these been implemented? (II.8)

3.1 Legal basis

The manufacture of firearms, firearms components, cartridges and especially dangerous projectiles is controlled by the provisions of the Firearms Act and Decree (Ampuma-aselaki 1998/1, <http://www.finlex.fi>) which has been in force since 1 March 1998 and amended in 2002, 2003, 2004, 2005 and 2007. The provisions of the Act on Explosive Substances are, in addition to the provisions of the Firearms Act, complied with in the commercial manufacture of cartridges and especially dangerous projectiles containing explosives.

The Firearms Act is in compliance with the EU Council Directive on control of the acquisition and possession of weapons (91/477/EEC), the Convention Implementing the Schengen Agreement (19 June 1990) and the EU Council Directive on placing on the market and supervision of explosives for civil uses (93/15/EEC). Legislative measures have been taken in order to nationally implement the requirements of the Directive of the European Parliament and of the Council amending the Council Directive 91/477/EEC on control of the acquisition and possession of weapons (2008/51/EC). A legislative proposal (Government Bill 106/2009) has been presented to Parliament for approval.

3.2 Competent authorities

The Supreme Command of the Finnish Police was separated from the Ministry of the Interior and the National Police Board was grounded on January 1st 2010. The tasks concerning the licensing of the firearms for civilian use as well as the general supervision of the Firearms Act were transferred to the National Police Board. In this document the different tasks are described as they were during the year 2009.

The general supervision of the Firearms Act falls under the Ministry of the Interior's competence. The police supervise compliance with the Act. The Frontier Guard and the Customs supervise compliance with the Act in their respective areas of competence.

3.3 Scope and definitions

In the Firearms Act a firearm refers to an object with which bullets, pellets or other projectiles or incapacitating substances can be fired with the help of powder gas pressure, explosion pressure of primer mass or of other explosion pressure so that it may cause danger to people. The provisions of the Firearms Act on firearms also apply to guided-missile and rocket-launch systems and gas sprays.

3.4 Control of Production

According to the Firearms Act, a trade permit for dealing is required for the commercial trade in and manufacture of firearms, firearm components, cartridges and especially dangerous projectiles. The permit is granted by the Ministry of the Interior (Firearms Administration). It may be granted to an applicant, capable to carry out a deal, who notifies the person and who, with a view to her financial status, meets required preconditions for carrying out the deal in an appropriate manner. The permit cannot be granted if the local police department has not

approved the storage facilities of firearms, firearm components, cartridges and especially dangerous projectiles. The trade permits for dealing states all the operations, the firearms, firearm components, cartridges and especially dangerous projectiles under the permit. The permit is issued until further notice. For a special reason it can be issued temporarily. The dealer is obliged to notify the permit authorities within thirty days of the termination of the deal under duty, a change in the corporate form of the dealer as well as changes in the location of the business facility, factory or workshop. The dealer is also obliged to notify of changes concerning the storage facilities of firearms, firearm components, cartridges and specially dangerous projectiles. A trade permit for dealing is revoked if requested by the permit holder or if the permit holder no longer meets the above mentioned requirements. The permit may be revoked temporarily or entirely if the operations referred to in the permit have been interrupted for a period of at least three months, or if the permit holder or the person in charge has violated the Firearms Act or the terms of the permit or if he has otherwise proved unsuitable to carry out the operations referred to in the permit. The manufacture and conversion of firearms and firearm components for private purposes are also subject to authorization.

iii) Please describe how national laws, regulations and procedures that impact on the prevention, combating and eradication of the illicit trade in SALW in all its aspects are made public. (II.23)

All laws, regulations and decrees are published at the time of their adoption in the Statutes of Finland. Full text and description of relevant laws and procedures can also be found on the Government website <http://www.finlex.fi> (electronic database of Finnish acts and decrees as well as international treaties).

4. Law enforcement/criminalization

i) What national legislative or other measures exist to make the illegal manufacture, possession, stockpiling and trade of SALW criminal offences under domestic law? How have these measures been implemented? (II.3)

4.1 Criminalisation

Illegal manufacture, possession, stockpiling and trade of SALW are criminalised in the Penal Code (39/1889) and the Firearms Act as follows:

- Firearms crime

The Penal Code states that anyone who in violation of the Act transfers or imports into Finland, transfers from Finland, transports, transits or manufactures for a commercial purpose or markets, acquires, possesses or conveys a firearm, a firearm component, cartridges and specially dangerous projectiles, or in full or in part neglects the duty imposed on a dealer to maintain a register, is sentenced for a firearms crime to a fine or to imprisonment not exceeding two years. An attempted violation is also punishable.

- Gross firearms crime

If, in the case of a firearms crime, the object of the crime is a specially dangerous firearm or a large number of firearms or firearm components, considerable financial gain is sought with the crime or the crime is committed with special advance preparation and if the crime, also in an overall evaluation, is gross, the offender is sentenced for a gross firearms crime to

imprisonment not under four months and not exceeding four years. An attempted violation is also punishable.

A specially dangerous firearm refers to a grenade launcher, a mortar, and breech-loading cannon

as well as a firearm corresponding thereto in structure and purpose of use, a missile, a rocketlaunch system, an automatic firearm as well as a firearm disguised as another object than a firearm.

- Petty firearms crime

If a firearms crime, taking into consideration the nature or number of the objects subject to the crime or the other facts relating to the crime, in an overall evaluation is minor, the offender is sentenced for a firearms offence to a fine.

-Firearms offence

Anyone who, in violation of the Firearms Act, for example neglects the duty of notification of the termination of the trade of dealing he has carried on, a change in the corporate form of the dealer as well as of changes in the location of the business facility, or neglects the duty to notify of changes in storage facilities of firearms, firearm components, cartridges and specially dangerous projectiles is sentenced for a firearms offence.

- Sanctions of forfeiture

Sanctions of forfeiture are included in the Chapter 10 of the Penal Code. As a general rule, anyone guilty of a firearms crime, gross firearms crime or firearms offence is sentenced to forfeit to the state the object with which he has violated the provisions of the Firearms Act or its value.

An object belonging in full or in part to a person other than the offender, a person party to the crime or to a person other than the person on whose behalf or with whose consent the crime has been committed may not be ordered to be forfeited. However, an object may be held in the possession of the person to whom it has been transferred after the crime if the person knew of the crime when receiving the object.

If the sanctions of forfeiture, considering the circumstances surrounding the case, were unreasonable, the sanction or the claim relating to it may be waived.

4.2. Firearm Amnesty legislation

Legislation on Firearms Amnesty was approved by the Parliament at the end of 2003 and it came into force January 1st, 2004. The purpose of the legislation is to decrease the number of illegal and unregistered weapons in Finland. Since the legislation has entered into force, it has been possible to surrender illegal small arms, ammunition and explosives to the police without any legal consequences if they have not been used in criminal acts. The total number of surrendered firearms in 2008 amounted to a total of 1 590 firearms.

An owner of an illegal firearm can apply for a license to keep possession of the firearm or to convey it to another license holder through the police. Firearms that the owner does not apply to keep or convey to another license holder, will be deactivated or rendered to the state. Some

of the firearms may be sold by the police in official public auctions to collectors and other licensed individuals.

ii) Have those groups and individuals engaged in the illegal manufacture, trade, stockpiling, transfer, possession, as well as financing for acquisition, of illicit SALW been identified, where applicable? What action has been taken under appropriate national law against such groups and individuals? (II.6)

No organized groups on illegal manufacture, trade, stockpiling, transfer, possession as well as financing for acquisition has been identified. The criminal actions identified have been committed by private citizens not engaging in an organised crime. The identified cases have been prosecuted and the offenders have been convicted according to the Firearms Act (See 4.1 Criminalization).

iii) What national measures have been taken, including legal or administrative means, against activity that violates a United Nations Security Council arms embargo in accordance with the Charter of the United Nations? (II.15)

National measures for the enforcement of UN Security Council arms embargoes		
<i>Area:</i>	<i>Legal means</i>	<i>Date</i>
Enforcement of UN arms embargoes	Laki puolustustarvikkeiden maastaviennistä ja kauttakuljetuksesta (<i>Act on the Export and Transit of Defence Materiel</i>)	Act No. 242/1990, as amended by Acts 197/1995, 893/2001, 385/2002, 900/2002 and 429/2009
	<i>Act on the Export and Transit of Defence Materiel</i>	

	<p>The arms embargoes imposed by the United Nations Security Council (and by the European Union) are implemented at the national level by virtue of the <i>Act on the Export and Transit of Defence Materiel</i> (Act No. 242/1990, as amended by Acts 197/1995, 893/2001, 385/2002, 900/2002 and 429/2009). According to the Act, the export, transit or brokerage of defence materiel is subject to specific authorisation (export and brokerage licence). A licence to export or broker shall not be granted if it jeopardizes Finland's security or is inconsistent with Finland's foreign policy. <i>The General Guidelines for Export, Transit and Brokerage of Defence Materiel</i> adopted by the Government (1000/2002, as amended by Government decision 101/2003) provide that economic sanctions and arms embargoes imposed by the UNSC or the EU shall be complied with when granting an export licence or licence to the transshipment of defence materiel. The relevant economic sanctions and arms embargoes are listed in annexes of the <i>General Guidelines for Export, Transit and Brokerage of Defence Materiel</i>, which are kept up to date by the Finnish Ministry for Foreign Affairs. A reference to the relevant EU or UNSC decisions is included in these annexes after their entry into force.</p> <p>According to section 7 of the Act on the Export and Transit of Defence Materiel, a person who commits an export offence shall be fined or imprisoned for a maximum period of four years.</p> <p>Furthermore, the <i>Firearms Act</i> (Act No 1/1998) provides that the transfer, import, export and transit for commercial purposes of firearms, firearm components, cartridges and specially dangerous projectiles shall be subject to an authorisation. The licensing authority shall when appropriate establish with the Ministry for Foreign Affairs that there are no foreign or security policy obstacles for the granting of an export or transit permit.</p> <p>http://www.finlex.fi</p>
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5. Stockpile management and security

i) What national standards and procedures exist for the management and security of SALW stocks held by armed forces, police or other authorized bodies? (II.17)

5.1 Management and security of national stockpiles, destruction of surplus

Stockpile management in Finland is founded on laws, degrees as well as internal regulations of the Defence Forces. The main part of the regulations has been updated in April 2006. The regulations to monitor all material in the Defence Forces were issued on 14 May 1993. They define the functions and tasks related to acquiring, transporting, distributing, using, maintaining, selling, renting, discarding and replacing material and relevant administrative control. The document defines accurately the functions, the tasks of the personnel and issues of liability.

An individual or a unit is always liable for material in its possession. Transfer of liability can be verified by transfer and receipt protocols. The regulations on security in military installations are applied to surveillance of buildings and areas, trespassing, access to buildings or areas and protective measures against fire. Security arrangements in the Defence Forces have been standardised. The security plan covers security zones and measures to ensure security and also ways to develop these measures. The plan states how to handle alerts, which measures are to be taken in alerts and the overall development plan. To control material, a military unit enacts regulations, which specify the most important functions concerning material, its location, control, and sharing of responsibility. The following issues are also regulated:

- responsibility for material when taking over new tasks
- arrangement of inventories
- guarding of material
- control
- responsibility for implementing continuous control
- internal surveillance.

Each material inspection is registered and documented. The outcome of the inspection and the resulting measures are given in writing.

ii) How often are stocks of SALW held by armed forces, police and other authorized bodies reviewed? (II.18)

Once a year, the commander of a company-level unit (or equivalent) inspects all materiel in the unit. In particular the following are inspected:

- small arms and light weapons, which are used in training, with their equipment and ammunition
- light rocket-propelled grenades (disposable)
- missiles with launchers

In addition to these, the unit's weapon inspection protocol, distribution of material and loans are checked once a month.

The stockpile accounting is conducted to follow the quantity, quality, location and changes of all material in the Defence Forces. Accounting is regulated by laws and decrees.

iii) How are those stocks of SALW held by armed forces, police and other authorized bodies that are surplus to requirements identified? (II.18)

Material is removed from accounting after it has been discarded by a special committee. A protocol is written and relevant information is entered into material accounting. This procedure is also applied to damaged or lost material. Any damage caused intentionally leads to a claim for compensation. Damage reports are dealt with in accordance with the instructions issued by the Legal Division of the Defence Staff.

Discarded material is destroyed or sold. The Ministry of Defence decides on selling weapons or ammunition to arms dealers for reselling. As stated by law, in order to export defence materiel, an export permit is required.

6. Collection and disposal

i) Please give details of any national programmes that have been established and implemented for the responsible disposal of surplus stocks of SALW held by armed forces, police and other authorized bodies. (II.18)

The Army Materiel Command does not have any special programmes for the disposal of surplus stocks of SALW. These issues are dealt with as a part of ordinary work and duties according to the Defence Staff or Army Command orders and regulations.

ii) Is destruction the means used to dispose of such stocks? (II.18)

The destruction is one of the means used to dispose surplus stocks of SALW. The material can be sold or donated too.

iii) What national measures exist to safeguard such stocks prior to their disposal? (II.18)

The surplus stocks of SALW are stored according to same instructions as other SALW. Before destruction the weapons can be dismantled and the main parts of the weapon can be destroyed separately elsewhere.

iv) Subject to the exceptions set out in paragraph II.16 of the UN Programme of Action, are all confiscated, seized or collected SALW destroyed? (II.16)

SALW are usually confiscated or seized by police. If weapon is the property of Defence Forces, it will be returned to Defence Forces.

v) What methods has your country used to destroy surplus stocks of SALW designated for destruction? (If appropriate, please make reference to the report of the UN Secretary-General (S/2000/1092) of 15 November 2000.) (II.19)

These SALW have been destroyed by crushing and melting under the supervision of the Defence Forces.

vi) Please give details of any information on SALW confiscated or destroyed within your jurisdiction that is submitted to relevant regional and international organizations. (II.23)

According to the Decree by the Ministry of the Interior on the Handling of Firearms, Parts of Firearms and Ammunition Confiscated or Handed Over to the State a working group is established, the task of which is to make a proposal to the Ministry of the Interior of the destruction, using to state purposes or handing over of the material confiscated or voluntarily handed over to the state. The Ministry of the Interior, the National Bureau of Investigation, the National Board of the Antiquities and the Military Museum are represented in the working group. According to the Decree the material may be used to state purposes. The SALW may also be handed over to a museum or a collection as well as to private persons. Material which is not used for state purposes or handed over shall be destroyed. The Ministry of the Interior is the competent authority to decide on issues which are in the scope of the Decree. The SALW which are confiscated or voluntarily handed over to the state, are destroyed if they are not handed over to the collections of state authorities. These SALW are destroyed by cutting into small pieces by the police. The total number of firearms destroyed was 6 338 in 2009, which is 97 per cent of the total amount of firearms confiscated or handed over to the state.

7. Export controls

i) Please describe the system of export and import licensing or authorization, as well as measures on international transit, used by your country for the transfer of all SALW. (II.11)

7.1. Competent Authorities

There are two authorities in charge of controlling the export of small arms and light weapons in Finland. Ministry of Interior is responsible for controlling exports of the *civilian firearms*, as well as imports of all firearms. Ministry of Defence is in charge of controlling exports of *defence materiel*. The term *defence materiel* comprises all the products on the Wassenaar Munitions' List as well as on the European Union Common Control List of Military equipment, with the exception of non-automatic rifles, carbines, revolvers and pistols and smooth-bore weapons, which are classified as civilian firearms in Finland. Sharp-shooting rifles are, however, classified as defence materiel.

ii) Please describe the national laws, regulations and administrative procedures used by your country to ensure effective control over the export and transit of SALW. How are these measures implemented? (II.12)

iii) Does your country use authenticated end-user certificates for this purpose? (II.12)

iv) Does your country notify the original exporting State when re-exporting or retransferring previously imported SALW? (II.13)

7.2. Legal basis and national licensing guidelines (small arms and light weapons classified as defence materiel)

The basic principles, policies and national practices on the export of conventional arms and related technology are outlined in the relevant Finnish legislation. The export of defence materiel and its transit is allowed only if authorisation (an export licence) has been granted. Authorisation will not be granted if it jeopardizes Finland's security or is in contradiction with Finland's foreign policy.

These basic principles in the Act on the Export and Transit of Defence Materiel are supplemented by clarifying rules outlined in the National Guidelines. All applications are examined on a case-by-case basis based on an overall assessment. The following factors shall be taken into account in the overall assessment of licence applications:

- foreign and security policy aspects, including the relevant UN, OSCE, EU and other international obligations be they decisions on arms embargoes, multilateral restraints, criteria, principles or guidelines of multilateral export control regimes
- an analysis of the situation prevailing in the recipient country, especially with regard to human rights, including attitudes of other States vis-à-vis the recipient country
- the characteristics, intended use and military significance of the item to be exported
- the significance of the item and export in relation to the materiel preparedness of Finnish national defence and to the development of domestic defence industry.

The EU Code of Conduct on Arms Exports is incorporated into Finnish legislation as an annex to the national Guidelines. The Code of Conduct was adopted as Common Position

2008/944/CSFP defining common rules governing control of export of military technology and equipment in December 2008. Technical changes required due to this adoption will be implemented in national legislation in the near future.

In ambiguous cases, a restrictive approach is preferred. If the export of the item in question, by virtue of its characteristics and significance, will not lead to, or in all likelihood won't to be used in violations of human rights, offensive armed action or other comparable unacceptable purposes inside or outside the recipient country, the granting of a licence may be recommended if the overall assessment on all other accounts is favourable and if the formal licensing requirements have been met. There are specific rules for the export licensing of components and sub-systems of any defence equipment.

The relevant Finnish legislation is as follows:

Act on the Export and Transit of Defence Materiel (242/1990, amendments up to 429/2009 included)

- a concise framework law stipulating the authorisation and procedure as well as sanctions in case of violations
- establishes the following responsibilities for various authorities:
 1. Ministry of Defence (MoD): licensing authority
 2. Council of State (Council of Ministers): grants licences for all major exports; affirms the guidelines
 3. Ministry for Foreign Affairs (MFA): advises on foreign and security policy considerations
 4. Customs: enforcement

General Guidelines for the Export and Transit of Defence Materiel (1000/2002, amendments up to 115/2005 and 180/2007 included)

- Provides more detailed guidelines for the application of the Act by giving clarifying rules of foreign and security policy substances as well as of procedural substance
- Provides more detailed guidelines for the implementation of the international agreements and obligations adhered to by Finland in the field of export of defence equipment
- incorporates the international norms into the domestic legislation by explicit references to the OSCE Principles on arms transfers, the EU Code of Conduct on Arms Exports, decisions on arms embargoes by the UNSC or the EU etc. and integrates these sets to the Guidelines as its annexes.

Decree on the Export and Transit of Defence Materiel (108/1997, amendments up to 100/2003 included)

- establishes the coverage of controls by defining the list of defence materiel, by main headings, classified into four item categories (based on characteristics, intended use and military significance of the items)
- the coverage also includes “related technology”. Authorisation is, hence, needed for yielding control or transfer abroad of any:
 - know-how and licence to manufacture materiel
 - machine tools and equipment especially designed for manufacturing materiel
 - computer software relating to the manufacture or use of materiel
- the export of technology shall require an export licence even if such technology is intended for development, production or use of an item which is not defined as defence materiel

- authorisation is not required for the exports of technology which is necessary for the installation, use, maintenance, inspection, or repair of an already licensed item
- nor is authorisation required for the export of technology which is widely available internationally or related to basic scientific research.

Decree of the Ministry of Defence (192/1997, amendments 59/2002 and 543/2002)

- implement the EU Common List of Military Equipment as well as the Munitions' List of the Wassenaar Arrangement.

7.2.1. Licensing procedures and documentation

Licence applications and prior enquiries on defence materiel are dealt with in the Advisory Committee for Exports of Defence Materiel chaired by the Ministry of Defence with the participation of the other authorities concerned; they include the Ministry for Foreign Affairs, the Ministry of the Interior, the National Board of Customs, Defence Staff and the Security Police.

The task of the Committee is to conduct an overall assessment of the applications based on the relevant legislation. The applicants must provide all required documents and information to the Ministry of Defence. If the assessment results in a favourable opinion, the Ministry of Defence will give its authorization for the export or recommend to the Council of State that the authorization be given in cases where this is required (section 2 of the Act).

The MfA is responsible for advising on any foreign and security policy considerations (including human rights concerns, non-proliferation aspects) in relation to licence applications or prior enquiries.

All applications are considered on a case-by case basis, based on an overall assessment. The Guidelines include a list of countries embargoed by the UNSC, EU and OSCE decisions. This list is updated with new decisions or sanctions or on their lifting. In certain cases there is no need to seek for foreign and security policy advice which enables more expedient procedures and implies a kind of preferential treatment. This applies to exports to certain countries that are members of the international export control regimes and conduct a responsible export policy. This exception to the normal procedures applies only if the prevailing conditions in that country do not give reason for a different conclusion. Applications where the item to be exported is intended for use in a peacekeeping mission or in a crisis management implemented or authorised by the UN or the OSCE are as a rule approved.

After it has been established that there are no foreign and security policy grounds to deny the export, the following shall be ascertained prior to the licensing and on the basis of the assurances provided to the Ministry of Defence: the end-user, the end-use, and the arrival and non-diversion of the export (through a non-exportation clause and afterwards through verification of delivery).

The End User Certificate is required when exporting military items permanently. For exports of components and subsystems, a Certificate on Use in Own Production is in some cases deemed sufficient. The significance of the component with respect to the final product of which it is part of will also be taken into consideration.

A Delivery Verification Certificate (DVC) issued by the Customs authority of the recipient country or the End User of the product in question is provided for as a verification of the import into the recipient country.

The Council of State or the Ministry of Defence may revoke an export licence granted if there is found to be sufficient grounds for such a revocation. According to the Guidelines, a revocation or withdrawal of a licence may result, i.e. from the following reasons:

- entry into force of legally binding sanctions, for example an arms embargo established by an international organization, affecting the recipient country and such products as are covered by the licence
- a fundamental change in the situation of the recipient country, leading to a possibility of the defence materiel exported under the licence being used in violation of human rights, in offensive armed action or for other comparable, unacceptable purposes
- when the exporter has been charged with an export crime or an export violation under Section 7 of the Act.

In considering revocation or withdrawal of a licence, existing supply commitments will be taken into account, including commitments to supply services and spare parts related to past or present materiel deliveries.

7.2.2. Sanctions

The penal implications of a non-compliance with the regulations of export and transit control of defence materiel, are stipulated in Sections 7 and 8 of the Act on the Export and Transit of Defence Materiel. A person who illegally exports defence materiel (or makes himself guilty of comparable acts), commits an export crime and shall be fined or imprisoned for a maximum period of four years.

Any person who, for the purposes of obtaining an export licence, provides untruthful information or conceals relevant information also commits an export crime, and shall be punished accordingly.

Any person who in any other manner acts contrary to the Act or to the regulations issued there under commits an export violation punishable by a fine.

Any defence materiel (or its value) which has been the object of a crime and shall be forfeited to the State. The same applies to the means of transport connected to an export crime. Any firearms or ammunition (or its value) which has been the object of a crime and shall be forfeited to the State.

The Penal Code contains provisions concerning forfeiture of the economic benefit produced by the crime etc.

7.3. Legal basis and national licensing guidelines (Small Arms and Light Weapons classified as civilian firearms)

The Firearms Act and Decree, in force since 1 March 1998, implement the EU Council Directives on control of the acquisition and possession of weapons (91/477/EEC) as well as on placing on the market and supervision of explosives for civil uses (93/15/EEC).

The Act and Decree regulate acquisition, manufacture, conversion and repair, possession, trade, import and export, transfer and transit of firearms, firearm components, cartridges and specially dangerous projectiles.

The concept of transit covers all transports through the Finnish territory.

As a *general rule*, an authorisation may be issued if an acceptable justification exists for the granting of the authorisation and if there is no reason to suspect that the authorisation or the objects acquired or possessed there under are misused. The specific licences are subject to additional requirements.

The police department of the place of residence of the applicant shall grant and revoke a permit for *acquisition, possession and private manufacture and conversion, private import and transfer* of firearms.

Trade permit for dealing (trade, manufacture, repair and conversion for commercial purposes) is subject to a licence issued by the Ministry of the Interior.

Commercial transfer, import, export and transit are subject to an authorisation by the Ministry of the Interior. The same ministry shall also grant and revoke a commercial prior consent.

In the Firearms Act the licensing of exports and transfers is based on separate procedures. Export refers to transport from Finland to a country other than a European Union Member State whereas transfer refers to transport from one European Union Member State to another. Transit refers to transport from a country other than a European Union Member State via Finland to a country other than a European Union Member State.

A commercial transfer license may be granted if, in accordance with a notification of the authority of the country of destination, there are no obstacles for the transfer and if the transfer conditions are safe.

The authority granting the commercial export permit may require that an end-user certificate or other reliable account is presented stating that there are no obstacles for the granting of the permit. A commercial transit permit may be granted to an applicant who presents an end-user certificate or other account stating that there are no obstacles for the granting of the permit. According to the firearms act the permit authority ascertains, if so required by the handling of the permit issue, from the Ministry for Foreign Affairs that there are no foreign or security-policy obstacles for the granting of the permit.

In practice, the assessment of the foreign or security-policy aspects is made according to the same basic principles as with the export and transit of defence materiel. An export licence is not granted if the Ministry of Foreign Affairs states that there is a foreign or security-policy obstacle to export.

7.3.1. Sanctions

The sanctions of non-compliance with the Firearms Act are stipulated in sections 1 - 3 of the Chapter 41 of the Penal Code. Any person who illegally transfers or imports into Finland, transfers from Finland, transports, transits or manufactures for a commercial purpose or

markets, acquires, possesses or conveys a firearm, firearm component, cartridges and specially dangerous projectiles shall be sentenced for a firearm crime to a fine or to imprisonment not exceeding two years. Under aggravating circumstances, the maximum punishment is imprisonment for four years, and the minimum punishment imprisonment for four months (a gross firearms crime).

8. Brokering

i) What national legislation or administrative procedures exist to regulate the activities of those who engage in SALW brokering within national jurisdiction and control? (e.g. registration of brokers, licensing or authorization of brokering transactions and appropriate penalties) (II.14)

ii) Measures undertaken to prevent, combat and eradicate illicit brokering in small arms and light weapons (ODA/02-2008/SALW-BMS);

iii) Measures undertaken to enhance international cooperation to prevent, combat and eradicate illicit brokering in small arms and light weapons (ODA/02-2008/SALW-BMS):

8.1. Arms brokering legislation (Defence Materiel)

In Finland, brokering controls entered into force on the 1st of December 2002, when provisions on controlling brokering were inserted to the Act on the Export and Transit of Defence Materiel (242/1990, amendments 900/2002). Finnish legislation is in full compliance with the Common Position on arms brokering adopted by Council of the European Union in June 2003. The provisions on arms brokering also implement the provisions of the UN Firearms Protocol and the OSCE Document on Small Arms and Light Weapons as well as the norms set out in the UN Programme of Action on Small Arms and Light Weapons.

According to Finnish legislation brokering means activities where the parties are brought in contact with each other with the purpose to conclude a contract involving export or transfer of defence materiel. Brokering covers buying and selling where the products come into legal possession of the broker as well as activities where the title is transferred directly from seller to buyer.

The concept of defence materiel is basically identical to the coverage of the Wassenaar Munitions' List as well as the EU Common List of Military Equipment, with one exception. Civilian firearms are subject to the provisions of the Firearms Act, which, for the moment, does not include brokering controls.

A broker is a private person or a legal entity negotiating or arranging a contract, which involves the export or transfer of defence materiel from third country to another. Third countries cover EU Member States as well as other foreign countries.

Licensing requirements apply to brokering activities taking place on Finnish territory. When products are transferred through Finnish territory, transactions fall under the scope of export and transit controls.

In addition, an extraterritorial scope of application has been included in legislation. When brokering transactions take place outside Finnish territory, licensing requirements apply whenever the broker is a Finnish national, a Finnish legal entity or a Finnish resident.

Licensing system

Brokering licences are processed basically on the same basis as the export licences. Ministry of Defence is the licensing authority. A brokering licence shall not be granted if it jeopardises Finland's security or is contradiction with Finland's foreign policy. Brokers do not have to possess a licence to be able to operate.

Licences are granted on a case-by-case basis and applications are processed in accordance with a product-based general assessment:

- foreign and security policy aspects including the relevant UN, OSCE, EU, WA and other international obligations;
- analysis of the situation prevailing in the recipient country, especially with regard to human rights, attitudes of other States vis-à-vis the recipient country;
- characteristics, intended use and military significance of the item to be exported.

In ambiguous cases, restraint is preferable.

MoD works in deep cooperation with other authorities, especially with Ministry for Foreign Affairs; if the licence application so requires, the Ministry of Defence shall seek advice from the Ministry for Foreign Affairs to ensure that there are no foreign and security political grounds for denying authorization.

Certain licence applications and prior enquiries are dealt with in an inter-agency group (Advisory Export Control Group) established and chaired by the Ministry of Defence with the participation of other authorities concerned: MFA, MTI, MoI, Defence Staff, Security Police as well as Customs. The MFA is in charge of presenting the foreign and security policy considerations to the group. The group gives its opinion to the licensing authority which makes the final decision. The group takes no vote. In case of dissent no opinion can be given.

Records

The Ministry of Defence keeps a database of brokering licences granted. Brokering licences are official documents, as the export and transit licences, and can be obtained from the MoD registry.

Sanctions

The same sanctions apply to illegal export and transit as well as to illegal brokering. The penalties range from a fine up to a maximum of 4 years imprisonment.

8.2. Arms Brokering legislation (civilian firearms)

The Ministry of Interior in Finland is also presently preparing the implementation of the UN Firearms Protocol. A motion to issue provisions on Arms Brokering concerning civil firearms and ammunitions is currently under preparation.

B.) Regional and international cooperation

During 2009 Finland continued to actively participate in the work of international organizations and regional arrangements on SALW related issues. In addition to the below listed activities, Finland participates in the meetings and drafting of reports of the EU, UN, OSCE, NATO/EAPC and Wassenaar.

Finland has continued to promote international efforts to strengthen the control of arms exports and to limit proliferation of SALW.

Finland has from the beginning been among the first countries to express its support to an international Arms Trade Treaty (ATT). In 2009 Finland was one of seven countries which co-sponsored UN resolution to begin to negotiate Arms Trade Treaty.

During the Finnish presidency the OSCE in 2008 adopted an important decision on small arms at its Ministerial Council meeting in Helsinki on 5 December. The decision, which is politically binding to all 56 OSCE participating States, requests them to establish, or reinforce, a legal framework for lawful brokering activities within their national jurisdiction by the end of 2010. The decision also encourages all OSCE States to implement the International Tracing Instrument in their national laws and procedures. The Ministerial Council also tasked the Organization to hold a comprehensive review of its small arms commitments in 2009. In September 2009 an OSCE meeting was held to review the OSCE document on SALW and its supplementary decisions. Finland was one of the meeting's sponsors.

In recognition of the impact of armed violence on social and economic development and the lack of development as a cause for armed violence, Finland has continued to be an active core group member of the Geneva Declaration of on Armed Violence and Development demonstrating the crucial importance of integrating questions of security and development.

From the autumn 2007 Finland has been an invited member of the Advisory Board of the ECOWAS Small Arms Control Programme (ECOSAP).

Financial, technical and other assistance given to relevant programmes and projects conducted by UN bodies, other international or regional organisations and NGOs;

- Financial contribution to the Saferworld for the seminar which will be held in Kazakhstan in May 2010, (total 15 000e);
- Financial support to the OSCE for the OSCE meeting to review the OSCE document on small arms and light weapons and its supplementary decisions in Vienna 22-23 September 2009, (total 5 000e);
- Contribution to the NATO Partnership for Peace Trust Fund in Afghanistan on the provision of support for the Physical Security and Stockpile Management of Ammunitions;
- Upgrade of SALW and SCA storage facilities/Comprehensive SALW and SCA Programme in Belarus 2009, (total 80 000e);
- Upgrade of SALW and SCA facilities in Moldova 2009, (total 62 000e);

Participation in the work of international and regional organisations

Finland 2010

- Secondment of an FSC Support Officer to the Conflict Prevention Centre in the OSCE dealing with SALW issues;
- Participation in the core group of the Geneva Declaration on Armed Conflicts and Development and assistance to practical implementation of the Declaration in particular in Kenya;
- Financial contribution to Small Arms Survey for the edition of the Small Arms Survey Yearbook 2009 (total 20 000e);