

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**

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**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 component with serial numbers or another marking suitable for the identification of the object is unique and identifies the country of manufacture and also provides information that enables the national authorities of Finland to identify the manufacturer and serial number so that the authorities concerned are able 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 will be 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 of Finland.

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

All firearms in the possession of the police bear a marking making it possible to identify them. There is a separate register of the firearms which are in the possession of the police.

A firearms dealer manufacturing firearms, firearm components, cartridges and specially dangerous projectiles must keep a register. The register of the manufacturer must include the following information:

- 1) the amount, type, mode of operation, calibre, the manufacturer's mark, model or number as well as the serial number of the firearms manufactured;
- 2) the amount, type, calibre of the barrel, the manufacturer's mark, model or number as well as, if known, the serial number of the firearm components manufactured;
- 3) the amount, type and calibre of the cartridges and specially 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 permit for dealing.

A dealer must on request present the register to the police as well as convey it to the permit authority when the trade permits for dealing expires or if it is revoked. The register must be conserved for at least ten years after the last entry made therein.

A dealer is obliged to have in his employment a person in charge of the trade carried on in firearms dealing. The person in charge is responsible for the fact that the operations are carried out in accordance with the Firearms Act and the provisions issued under as well as with the permit terms. The person in charge is approved or the approval is revoked by the Ministry of the Interior which issues the trade permit for dealing.

The local police authority examines, at least once a year, registers, books, storages and storage facilities of dealers operation in their territory. When carrying out the examination, the police are entitled to have access to the bookkeeping of the dealer as well as to the facilities in which the firearms, firearms components, cartridges and specially dangerous projectiles are stored.

In cases involving international transactions, the following information is recorded: the mark, the issuance and expiration date of the appropriate licences 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 Proofmarks 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 participated the amendment of the Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons. The proposal for the amendment contains measures to enhance the tracing of firearms within the EU. After the approval of the Directive Finland will start the implementation of the directive into the national legislation.

## 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

#### A.) National level

##### 1. National coordination agency

###### 1.1. National Coordination Group of SALW Experts

The National Coordination Group of SALW experts includes the representatives of the ministries involved with arms control, disarmament and non-proliferation of SALW and the representatives of national non-governmental organisations tackling 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 it has representatives from the Ministry of Defence, Ministry of Interior and Ministry of Trade and Industry. The representatives from other authorities (custom, border control etc.) are invited to participate whenever 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, Division of Arms Control, Disarmament and Non-proliferation. Contact information is POL-05@formin.fi or MFA, Arms Control, P.O. Box 176, 00161 Helsinki, Finland +358 9 1605 5110 and 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 specially dangerous projectiles is controlled by the provisions of the Firearms Act and Decree (Ampuma-aseleki 1998/1, <http://www.finlex.fi>) which has been in force since 1 March 1998 and amended in March 2002. 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 specially 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).

### **3.2 Competent authorities**

The general supervision of the Firearms Act belongs to the Ministry of the Interior. 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 commercial trading in and manufacture of firearms, firearm components, cartridges and specially dangerous projectiles. The permit is granted by the Ministry of the Interior (Firearms Administration). The permit may be granted to an applicant, eligible to carry on a trade, who notifies the person in charge and who, with a view to his financial status, has adequate preconditions for carrying on the trade of dealing 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 specially dangerous projectiles. The trade permit for dealing states all the operations, the firearms, firearm components, cartridges and specially dangerous projectiles that the permit covers. The permit is issued until further notice, but for a special reason it can be issued temporally. The dealer is obliged to notify the permit authorities of the termination of the trade of dealing he has carried on of, a change in the corporate form of the dealer as well of changes in the location of the business facility, factory or workshop within 30 days. 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 on the operations referred to in the permit. The manufacture and conversion of firearms and firearm components for a private purpose 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 the following way:

##### **- 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, 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 attempt 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 attempt is also punishable.

A specially dangerous firearm refers to a grenade launcher, a mortar, a breech-loading cannon as well as a firearm corresponding thereto in structure and purpose of use, a missile, a rocketlaunchersystem, 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 stipulated 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 regard to 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 ordered to be forfeited by the person to whom it has been transferred after the crime if he 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 1<sup>st</sup>, 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 is possible to surrender illegal small arms, ammunition and explosives to the police without any legal consequences if they have not been used in criminal act. The total number of firearms surrendered was 3 202 during the year 2007.

Owner of an illegal firearm can apply for a licence to keep the gun or to convey it to another licence holder through the police. Those arms that the owner wish not keep or convey to another licence holder, will be deactivated or rendered to the state. Some of them will be sold by the police in official public auction to the collectors and other licensed arms holders.

*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 organized crime. The cases identified have been prosecuted and penalized 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, and 900/2002
<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, and 900/2002). 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 <i>Act on the Export and Transit of Defence Materiel</i>, 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>		
<a href="http://www.finlex.fi">http://www.finlex.fi</a>		

## 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 follows laws, decrees as well as internal regulations of the Defence Forces. The main part of regulations has been updated in April 2006. The regulations to monitor all material in the Defence Forces were given 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, tasks of personnel and questions of liability.

A person or a unit is always liable for material. Transfer of liability can be verified in transfer and receipt protocols. The regulations about security in military installations are applied to surveillance of buildings and areas, trespassing, access to a building or an area 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, the measures 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 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 inspection is registered in the documentation on material. 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 makes a decision 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 Defence Forces Materiel Command (DFMC) has not any special programmes for the disposal of surplus stocks of SALW. It is part of ordinary work based on the decisions of the Defence Staff.

*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 in different time and place.

*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 has been destroyed by crushing and melting under the supervision of 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 Degree 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 voluntary 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 Degree 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 to state purposes or handed over shall be destroyed. The Ministry of the Interior is the competent authority to make the decisions on issues which are in the scope of the Degree. The SALW confiscated or voluntary handed over to state are destroyed if they are not handed over to the collections of state authorities. SALW which are considered as collector's items may be handed over to private museums or collectors. These SALW are destroyed by melting under the supervision of the police. The total number of firearms melted was 3 283 in 2007, which is 91 per cent of the total amount of firearms confiscated or handed over to the state. 8728 pcs of assault rifles, 3495 pcs light machineguns and 145 pcs of heavy machineguns have been destroyed by Defence Forces in 2007.

## 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 jeopardises Finland's security or is in contradiction with Finland's foreign policy.

These basic principles contained 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:

- o 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
- o 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
- o the characteristics, intended use and military significance of the item to be exported
- o 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 the Finnish legislation as an annex to the national Guidelines. 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 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 900/2002 included)

- o a concise framework law stipulating the authorisation and procedure as well as sanctions in case of violations
- o 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)

- o 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
- o 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
- o 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)

- implements 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 requirement for an End-User Certificate issued by the competent body of the country of final destination is stipulated in the Act proper, so they are needed in all cases. 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 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 (18.6.1991) as well as on placing on the market and supervision of explosives for civil uses (5.4.1993).

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 another 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 came 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 view to concluding 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, that involve 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 requirement applies to brokering activities taking place in the Finnish territory. When the products are transferred through the Finnish territory, the transaction comes to the scope of export and transit controls.

In addition, an extraterritorial scope of application has been included in the legislation. When the brokering transaction takes place outside the Finnish territory, licensing requirement applies 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

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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**

Finland participated actively 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 was among the first countries to support an international Arms Trade Treaty. Finland also takes part in the UN Group of Governmental Experts on ATT.

In 2008 Finland chairs the Geneva process on Small Arms for the first half of the year. Finland has also been invited to the Advisory Board of the ECOWAS Small Arms Control Programme's (ECOSAP).

Finland has identified small arms related issues as one of the priority areas for its OSCE Presidency in 2008. Finland will seek to intensify the activities of the OSCE in the area of SALW and surplus ammunition with regard to both norms and practical work undertaken in the field. This will be pursued also by developing co-operation with other organizations. The OSCE should make a strong contribution to the third Biennial Meeting of States to Consider the Implementation of the UN Programme of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects that will take place in New York in mid-2008. The activities of the OSCE also support the UN process aiming toward the elaboration of an international Arms Trade Treaty.

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

- Finland supported the ECOWAS Small Arms Programme (ECOSAP) with the amount of 250 000, 00 e in 2007. A similar amount will be disbursed in 2008 bringing the total Finnish support to 750 000,00 e in 2006-2008;
- Support to the OSCE mission in the Republic of Moldova, covering destruction of surplus and outdated stocks of ammunition (total 160 000,00 e);
- Contribution to the OSCE SALW and Conventional Ammunition Programme in the Republic of Tajikistan 2006-2008. Phase I covering restoration of ammunition magazines in six localities (total 100 000,00 e);
- 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 (total 100 000e).

### Participation in the work of international and regional organisations

- Secondment of an FSC Support Officer to the Conflict Prevention Centre in the OSCE in charge of small arms issues;
- Participation in the UN Group of Governmental Experts on illicit brokering of SALW;

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Yearbook 2007 (total 20 000,00 €); The yearbook "Guns and the City" was presented in the review conference of the Helsinki Process in Dar es Salam, Tanzania in November 2007;

- Financial contribution to UNIDIR's (United Nations Institute for Disarmament Research) project "The Arms Trade Treaty Analysis of Views Submitted to Secretary-General" (total 40 000,00 €);
- Participation in the core group of the Geneva Declaration on Armed Conflicts and Development;
- Participation in the Helsinki Process Round Table- meeting on SALW transfers in Montebello, Canada;