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SUBJECT: France Arms Export Laws and Regulations

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Belgium: Arms Export Laws and Regulations

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**Belgium: Arms Export Laws
and Regulations**

**Prepared for Office of Global Issues
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Belgium: Arms Export Laws and Regulations

Scope Note

This study on Belgium is one in a series of contract studies on the laws related to the export of arms and other war materiel in selected countries. This analysis is based upon a review of laws, regulations, and administrative procedures, and discussions with US Embassy officers and government officials in Belgium. It is not, however, a conclusive analysis of these laws and regulations, their practical application, or their judicial interpretation. Comments and queries are welcome and should be addressed to Chief, International Security Issues Division

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BELGIUM: ARMS EXPORT LAWS AND REGULATIONS

BACKGROUND

Although a small country, scarcely larger than the state of Maryland, Belgium long has maintained a mature, heavily industrialized economy with a productive capacity that belies its small size. Given Belgium's pivotal location "at the crossroads of Europe," its extensive and diverse transportation systems, and the scarcity of natural resources, its economy understandably is dependent upon exports to a great extent. Raw materials and, increasingly, technology are imported, and finished goods and services in turn are produced and exported. Figures for the year 1983 are illustrative of the crucial role of exports in the Belgian economy: with a gross national product (GNP) that year of \$87.76 billion, exports were valued at \$51.93 billion.^{1/} By comparison, Canada, in that same year, had a GNP that exceeded Belgium's by 340 percent, yet exceeded Belgium in exports by less than 50 percent.^{2/}

At one time, armaments and ammunition accounted for a significant portion of Belgian exports, and Belgium was considered to be a principal exporter of war materiel. Between 1929 and 1938, for instance, Belgium ranked seventh worldwide in such exports, accounting for a full five percent of the world total.^{3/} Today Belgium would not be considered a major world supplier of arms in terms either of the total value of arms exports or of the development of major weapons systems.^{4/} Nevertheless, Belgium remains a major supplier of light weapons, guns for armored vehicles, support equipment, such as field communication units, and other items that do not produce the income generated by sophisticated, heavy weapons systems. With regard to more sophisticated systems, Belgian arms producers have been described as "a reliable partner of the international giants"^{5/} in offsets and other subcontract production, and as proficient in the adaptation of advanced technology into simpler systems more appropriate for Third World consumers.

The Belgian economy historically has been overwhelmingly private and free-market, and recent government involvement in business has been limited primarily to support of weaker sectors of industry, such as steel and textiles. The traditional government approach, however, remains the avoidance of extensive regulation of business. Although, for instance, arms manufacturers must register with local authorities pursuant to the 1933 Law on the Manufacture, Trade, and Carrying of Weapons and on the Trade of Ammunition (Appendix A), there is no specific control exercised over the

^{1/} US Arms Control and Disarmament Agency (ACDA), World Military Expenditures and Arms Transfers - 1985 (hereinafter ACDA Report), pp.54 and 96. Figures shown are in 1983 dollars.

^{2/} ACDA Report, pp. 54, 57, 96, and 99.

^{3/} R.E. Harkavy. The Arms Trade and International System (1975), pp. 78-79.

^{4/} In 1983, Belgian arms exports amounted to \$280 million, representing only 0.5 percent of the total value of exports.

^{5/} S. Geisenheyner. "Spotlights on the Belgian Defence Industry," in Military Technology, No. 2/86 (Feb. 1986), p. 44.

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production of arms or other munitions. Moreover, any Belgian Government financial involvement in private companies engaged in the manufacture of war materiel is, with a few exceptions, insignificant.^{6/}

This liberal approach toward economic regulation is reflected in the Belgian system for controlling the export of war materiel. Indeed, the only law that governs that system directly is the Law of 11 September 1962 (as amended in 1968) (Appendix B), which authorizes the establishment of a system for the licensing of exports in general. Neither that law itself, nor its implementing royal decree (Appendix C), mentions war materiel specifically.

The Belgian system for controlling arms exports is premised upon a two-part analysis: a determination of whether the goods to be exported are war materiel as defined in a government published list and the COCOM list of war materiel; and the interpretation and application of the four statutory criteria that underlie the authority to regulate exports, any one of which may be invoked by the appropriate authorities to deny an export license for goods that appear on the lists of war materiel. The amended 1962 law and its implementing royal decree, together with the lists of war materiel, are the only published sources directly governing the export of munitions from Belgium.

Inasmuch as these sources provide little more than a skeletal outline of a control system, informal procedures have been developed to govern decisions to grant or to deny export licenses for war materiel. Ultimately, such a decision is a matter of policy based upon the type and amount of materiel to be exported and an evaluation of the political ramifications, both foreign and domestic, of permitting such an export to the country of destination. The following discussion will include a description and analysis of these procedures.

LAWMAKING IN BELGIUM

The Belgian system of government is a parliamentary democracy with a constitutional monarchy, containing executive, legislative, and judicial branches of government. The executive power is formally vested in the King, although his authority is largely ceremonial, inasmuch as his formal powers are actually exercised by the Prime Minister and the Council of Ministers (or cabinet). The cabinet is made up of ministers selected from each house of the bicameral legislature who serve under the leadership of the prime minister. The most important ministers (foreign affairs, justice, economic affairs, and defense) exercise the day-to-day executive authority. The initiation and promulgation of royal decrees in the name of the King is effected by the cabinet; the King may not act on his own initiative, and acts of the King are invalid unless countersigned by one of the ministers. For controversial or other sensitive issues, the entire cabinet convenes to consider the matter, with most decisions being reached by consensus rather than by formal voting.

The constitution confers the legislative power upon the legislature (or "Parliament") and the King, although, again, the cabinet actually exercises the King's powers of

^{6/} A noteworthy exception is the significant government ownership (50 percent) of SONACA, the firm responsible for much of the offset work awarded to Belgium under the terms of the sale of F-16 aircraft to several NATO countries.

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legislative initiative in his name. Although Parliament retains the power to initiate legislation, in practice most such proposals now originate with the cabinet. Before submission to the Parliament, bills are referred to the Council of State (Conseil d'Etat), in effect a court of administrative review, for an advisory opinion, which often is taken into account in redrafting proposed legislation. Bills must be endorsed by both houses before they are transmitted to the King for signature and promulgation. References in the following section to the powers of the King should be read with the understanding that these powers are actually exercised on behalf of the King by ministers in the Belgian Government.

LEGAL CONTROL OF EXPORTS**The Law of 11 September 1962**

The Law of 11 September 1962, as amended by the Law of 19 July 1968 (Appendix B), is the sole statutory authority for controlling arms exports from Belgium. The law vests in the King, in consultation with the Council of Ministers, the power to regulate by decree the export, import, and transit of goods. This law is typical of Belgian legislation: it is brief and couched in language that is both broad and vague, as with the succinct yet expansive grant of the power "to regulate." The result is a comprehensive treatment of the subject, but with broad discretion left to those who administer the Law.

Article 2 of the law and its 1968 amendment set forth the criteria that govern the regulation of exports. Using these criteria, the government can control, to the point of actual embargo, the export of certain goods, including war materiel. The first three of these criteria appear in the original 1962 law. They provide that the licensing system may be imposed:

- o To safeguard the vital interests of a specific economic sector or those of the national economy as a whole.
- o To safeguard the internal or external security of the country.
- o To ensure the implementation of treaties, conventions, or agreements signed for an economic purpose or dealing with security, and the implementation of decisions or recommendations of international or supranational bodies.

The 1968 Amendment added a fourth criterion, permitting regulation of exports:

- o To contribute to the observance of the general principles of law and of human rights recognized by civilized nations.

Although the second criterion may leave some room for interpretation, the three original criteria essentially require that specific conditions be present before they may be invoked to deny an export license. By contrast, the fourth criterion is very broad and permits almost limitless application; it would appear to be a reaction to the constraints imposed by the very specific initial criteria. In fact, one commentator has asserted that this fourth criterion was added hurriedly in response to a Belgian Government decision not to allow exports to either side in the Nigerian civil war, and the realization that such

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an embargo could not easily be justified under then-existing criteria.^{7/} In any event, it would appear that this last criterion is the one now relied upon in all but the most unusual instances where an export license for war materiel is denied.

In addition to the inherent vagueness of the concepts contained in the fourth criterion, there are no implementing regulations or other published sources offering guidelines for the interpretation or application of any of these criteria. Furthermore, there apparently are no formal internal guidelines imposing any standards upon the ministries tasked with interpreting such terms, nor is there any inclination to restrict the wide discretion bestowed by the statute. The implementing royal decree and informal policies and procedures are used, however, to establish some degree of internal control and division of authority, as discussed below.

Article 6 of the law permits the appropriate ministers to establish "special requirements" for licenses, by means of either regulations or instructions conveyed to the issuing authorities. This provision is the legal authority for the requirement, discussed below, that applications to export war materiel to most countries contain end use certificates executed by appropriate government officials in those countries.

The Law of 11 September 1962 also addresses several administrative matters. Principal among these are the grants of authority to the King and appropriate ministers to determine conditions (Article 4) and set fees (Article 5) for the issuance and use of licenses, as well as the authority to revoke licenses already issued where unspecified "special circumstances" warrant (Article 7). Article 8 of the law authorizes the imposition of special duties upon the import or export of such goods as are named by the King. No special duties have been imposed to date, however, upon the export of war materiel.

Finally, the law contains enforcement provisions. Article 10 provides that violations and attempts to violate the law may be punished in accordance with the criminal provisions found in the General Law on Customs and Excise.

The Royal Decree of 24 October 1962

The decree (Appendix C) implementing the Law of 11 September 1962 specifies the agencies responsible for the export licensing system and provides a general outline for the issuance of such licenses.

Article 1, paragraph 1, of the decree vests in the Ministers of Economic Affairs and of External Commerce (and the Minister of Agriculture where such products are involved) the authority to require licenses for the import and export of certain goods. By virtue of this authority, extensive lists of goods subject to the licensing requirement periodically are published in the Moniteur belge, the official government gazette. The most recent of these lists include lists of weapons and other war materiel, was published in the Moniteur of 12 March 1982. These lists of war materiel (Appendix D) in fact consist in large part of Belgium's national COCOM list of strategic weapons and other equipment prohibited from export to Communist-bloc nations; it is used in determining whether a license must be obtained in order to export an item elsewhere in the world. (A brief discussion of the COCOM system is contained in Box 1). For this purpose, the original COCOM list is supplemented by an additional list of hunting, target, and similar weapons, and parts and related supplies, the most recent of which was published in the Moniteur of 29 December

7/ J. Stanley and M. Pearton The International Trade in Arms (1972), p. 15

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1985 (Appendix D). Although not provided for in the decree, the Ministries of Defense and Foreign Affairs are consulted informally in the course of preparing the lists of weapons and other war materiel.

The first step in the process of granting an export license is to determine whether the goods constitute war materiel subject to the export licensing requirements. If the goods to be exported are not found either on the general lists of goods or on the COCOM lists of strategic equipment and technology, no license is required for their export. Standard customs procedures, including documentation requirements and value-added tax (VAT) assessments, still must be observed, however.

Article 1, paragraph 2, of the Royal Decree contains what ostensibly is the authority for the second part of the process by which applications for export licenses are reviewed, namely, the evaluation of possible political effects of permitting the export of war materiel to the country in question. Although that paragraph indicates that the Ministers of Economic Affairs, External Commerce, and Agriculture (where appropriate) exercise this authority, in practice the Ministry of Foreign Affairs (MFA), in consultation with the other interested ministries, is responsible for determining the countries for which export licenses for war materiel may be issued or denied.

The decree also specifies (Article 2) that requests for export licenses are to be transmitted to the Central Office of Quotas and Licenses (Office Centrale des Contingents et Licenses or OCCL), which is located within the Ministry of Economic Affairs (MEA). The balance of the decree concerns such administrative matters as the basic requirements for license applications (Article 3), certain conditions that will render licenses void (Article 5), and provisions for the surrender or retention of expired licenses (Articles 5, 6, and 7). Enforcement of the decree's provisions is addressed in Article 9 by means of a reference back to Article 10 of the Law of 11 September 1962, and thereby to the punitive provisions of the General Law on Customs and Excise.

LICENSING PROCEDURES

The foregoing represents a description of the formal, published rules that govern the export of war materiel from Belgium. These rules, of course, are essential elements of the Belgian system, but they do not address the procedures and say little of the policies underlying a particular decision to deny, or to allow, such exports. For example, the Royal Decree of 24 October 1962 enables specific ministers to regulate the export of goods to whichever countries they choose, in effect to embargo arms shipments, or indeed any exports, to those countries. The decree is silent, however, with respect to the standards that these ministers should use in identifying the countries to be subjected to such regulation. Of course, the criteria contained in the enabling legislation, the Law of 11 September 1962, are the designated reasons upon which the entire system of regulating exports is to be based, but, as has been discussed, they are either so specific (the first three) or so broad (the fourth) as to furnish little guidance for policies or procedures. As a result, informal procedures have evolved whereby the ministries involved have assumed functions to protect their particular interests in regulating exports.

The process of control actually begins with the Belgian manufacturer who seeks to export war materiel or what reasonably might be considered to be war materiel. The manufacturer files an application for an export license with the OCCL, which triggers the two-part review process. If an exporter attempts to ship war materiel without first seeking a license, the control process would begin, if at all, with the refusal of Belgian Customs to allow shipment pending the obtaining of a license, presuming that the

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shipment does not elude, or is ignored by, Customs altogether. Viewpoints as to the frequency of bypassing Customs vary widely; the Belgian Government, not surprisingly, would appear to consider it rare.

Are the Goods in Question "War Materiel"?

The first administrative step in the control process occurs within the OCCL, where the description in the application of the goods to be shipped is compared with the lists of war materiel published in the Moniteur belge. As discussed above, if the goods do not correspond to any items on the lists, there is no need to obtain the license, but they must be exported in accordance with standard customs requirements.

Certain informal policies concerning this comparison have developed and, although unpublished, appear to be applied along predictable lines. For example, certain goods that are capable of both a military and a civilian use, so-called dual-use items, appear on the lists of war materiel and require a license. If an item does not appear on the lists, however, no license is required, despite any obvious military uses to which the item may be applied. Another instance of the use of informal guidelines involves the export of a license to manufacture war materiel outside Belgium, as opposed to the export of the weapons themselves. In what represents a difference in policy from a number of other arms-exporting states, such a transaction is considered to be an export of war materiel, at least to the extent that an export license is required. A transaction of this type also invokes an informal procedural requisite: OCCL must consult with the Ministry of Defense before permitting the export of a license to produce "any products in the defense sector," apparently to allow an assessment of security considerations and the potential effects upon the needs of the Belgian Armed Forces.

Other issues of interpretation and policy judgments may arise at this preliminary step, however, that are less susceptible to even informal guidelines. For example, if the items to be exported are parts, rather than finished goods, the inquiry is not a simple matter of whether the parts in question are on the lists of war materiel, as is the case with dual-use finished items. Rather, OCCL must make an ad hoc determination whether a license is required, guided chiefly by the premise that, if any nonmilitary use for the parts may be ascertained, they will not be considered war materiel. If necessary, in this situation OCCL may seek the assistance of the technical experts of the Industry Administration Office (also a part of the MEA), whose principal responsibility is to assist in the determination of whether a proposed export falls within the COCOM list of strategic equipment and technology.

Should the Export of War Materiel be Permitted to the Country in Question?

Should the determination be made that the goods in question are war materiel, the decision whether to grant the license then hinges upon the country to which they are to be exported. Although the OCCL technically retains responsibility for this second part of the two-step process, in practical terms the Ministry of Foreign Affairs has assumed the predominant role. As discussed above, the MFA devises the lists of countries to which exports of war materiel will be reviewed and, in some cases, will not be allowed, despite the assignment of this task in the Royal Decree to the Ministries of Economic Affairs and External Commerce.

According to representatives of the MFA, OCCL is aware of the contents of the country lists and may approve outright any licenses for exports to certain countries (such as NATO and other "Western-oriented" countries) or may deny them outright in cases

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involving certain other countries (those to which an absolute embargo has been applied). The OCCL, on the other hand, maintains that all requests for the export of war materiel are referred to the MFA for review. Apparently, although it may dispose of certain requests, the OCCL finds it procedurally, and perhaps politically, more expedient to defer to the judgment of the MFA in all applications to export war materiel.

In any event, it is clear that most decisions ultimately rest upon the MFA's evaluation of the potential political effects of permitting the export to the country in question. As an informal guide, the MFA has established a number of categories of countries, the details of which are secret and made known only to interested offices within the government (such as OCCL). Countries essentially fall within one of three basic categories, with further distinctions appearing among those listed in two of these categories. Although the categories and subsets have been identified, and some countries may be associated with a given category with relative certainty, the actual lists remain secret and are not available.

NATO and Other Western Nations . The first category includes NATO and other Western-oriented countries. Whether by the MFA or the OCCL, license requests for countries on this list are approved as a matter of course, and no restrictions in principle are placed upon the export of war materiel to them, although certain procedural requisites may come into play. Although exports to countries in this category may be made to private concerns (unlike the case in other categories, where sales are permitted, if at all, to governments alone), the exporter must furnish documentary proof that the purchase is being made on behalf of some governmental entity within the country of destination. A purchase order, for example, will satisfy this requirement, and there is no specific requirement for an end use certificate or other formal government assurance. By contrast, for countries in all other categories, the MFA requires that the Belgian exporter submit an end use certificate signed by appropriate government authorities of that country. The certificate then is forwarded to the Belgian Embassy in the country involved for confirmation of the signatures.

Embargoed Nations . The second category includes those countries on which an embargo against all exports of war materiel has been placed. This category, in turn, is divided into two lists of countries: the absolute embargo list and the temporary embargo list.

The absolute embargo list has been described as containing "communist" countries; it would appear, however, that the list more accurately would be described as primarily the Warsaw Pact nations. Given current political circumstances within NATO and the Belgian Government's longstanding predilection toward facilitating exports, it is unlikely that this list would contain each of the Third World countries with "communist" forms of government of one type or another.

Belgium also considers itself compelled to respect any United Nations resolution that calls for an arms embargo against a particular country or the parties in a particular conflict. The second criterion listed in the Law of 11 September 1962 expressly authorizes such a practice. Presumably, any countries so identified would be placed upon the absolute embargo list.

The countries comprising the temporary embargo list have not been identified, and this list probably is subject to change far more frequently than the absolute embargo list. Likely candidates for this list include those countries that the Belgian Government does not recognize or those where an overthrow of the government is in progress or appears

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imminent. Such countries probably would be placed upon the temporary embargo list pending a decision of the Belgian Government to recognize any new regime, or a return to normalcy. The question of the status of national liberation movements and other nongovernmental entities would not arise, in view of the Belgian policy to permit exports only to governments (except in the case of NATO and other Western-oriented countries).

The possibility of a temporary embargo also arises in such situations as border conflicts between states or internal upheavals that do not result in a change of government. In such situations, it is important to remember the underlying premise of the Belgian system: discretion. By design, there are no rules or standards mandating a cut off of war materiel conditioned upon the occurrence of defined events; for instance, actual shooting is not required before an embargo may be imposed, nor does it dictate that one must be. As a result, in deciding upon an embargo, the MFA is free to consider virtually any factors, including domestic economic interests and public reaction, whether or not they have any specific bearing upon foreign policy concerns.

Sensitive and Other Countries . The third category of countries may succinctly be described as everyone else, or, all those countries that do not fall within the first two categories. Of course, the political considerations differ among these many countries, and certain of them are considered "sensitive" and are specifically listed as such. Requests for exports to all countries in this third general category are reviewed, and those relating to countries not considered to be sensitive would appear generally to be approved.

Any application in this category must include an end use certificate before the license will be approved. The need for a certificate occasionally may be waived for shipments of one or two small weapons, such as samples. More importantly, however, there are no formal means whereby the government can confirm that shipment in fact has been completed to the country listed on the end use certificate. No bill of lading or other documentation is used to help control the arrival of the goods.

For countries listed as sensitive, there again are no acknowledged criteria for identifying either the countries themselves or the specific considerations taken into account in determining whether to approve the request for a license. The OCCL has advised, however, that the notion of "sensitivity" relates to the type and amount of materiel to be shipped, as well as to the destination. In fact, if the country involved is considered to be particularly unstable or unsavory, OCCL will consult with the MFA before allowing the export of weapons not appearing on the war materiel list, even in small quantities (for example, a proposed shipment of several target pistols to South Africa).

Situations that may be considered "sensitive" and prompt the denial of an export license include those where foreign governments are engaged, or at least are widely reported to be engaged, in human rights abuses in their own countries, as well as those in which a government is attempting, whether through an infusion of arms or other means, to destabilize the government of a neighboring country. These instances offer the most direct application of the fourth criterion, the statutory authority to regulate exports in order to "contribute to the observance of the general principles of law and of human rights recognized by civilized nations."

An overview of the Belgian system of grouping countries into various lists reveals that it is with respect to the countries under temporary embargo, sensitive countries, and nonsensitive, non-Western countries that a political evaluation and decision on the part of the MFA is required. Despite the intent to provide the system with more flexibility, the

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MFA has evolved certain broad policy considerations that it applies to export license decisions. Certain of these already have been discussed, such as the policy not to permit exports to nonrecognized governments, and that of restricting exports to governments outside of NATO and similar countries, even where otherwise permitted. For exports within NATO and to other Western countries, the waiver of formal end use certification represents a similar policy decision. Still another consideration has been described as one of the "main points of policy" within the MFA: consultation with Belgium's partners within the European Community (EC). Specifically, the MFA acts to ensure that, if at all feasible, a decision to permit the export of war materiel to a particular country is consistent with the policies of other EC members. Their interest is not limited to a desire to abide by any embargoes imposed by other EC members. The MFA is as much concerned lest Belgium impose an embargo only to discover subsequently that one or more of its EC partners is selling arms to the country in question.

Special Procedural Considerations

Although the MFA retains the responsibility for classifying countries, it does not act alone in cases involving these three categories. An Intercabinet Committee routinely meets every two weeks to advise the MFA on sensitive countries and non-Western countries, and occasionally with regard to countries temporarily embargoed. This committee consists of representatives of the Ministries of Foreign Affairs, Economic Affairs, Defense, Interior, and External Commerce. There are other policy considerations that doubtless weigh in the balance, and this committee provides a forum in which they may be considered. These considerations include pressures, either actual or anticipated, from allies; anticipated public reaction at home and abroad; and the economic effect of denying an export license upon the exporting company, foreign exchange, unemployment, or other domestic economic factors.

Should a license application discussed in an Intercabinet Committee session raise issues so sensitive or controversial that they cannot be resolved at that level, the application is then referred to the Committee of Cabinet Ministers. This is in essence an "inner council" of the cabinet itself. The same five ministries as those on the Intercabinet Committee are represented, but at the highest levels; the ministers themselves convene to debate the matter. It is not known precisely how often there is a need to resort to this extraordinary procedure, but it is believed to be a relatively rare occurrence.

Appeals of License Denials

Belgian export laws provide no specific process for appeal of denial of export licenses. The general laws of Belgium, however, provide that particular administrative acts of the Government are subject to judicial review. This review is limited to a determination of whether the administrative action in question complies with the pertinent law. Acts of Parliament themselves are not subject to judicial review. The decisions of the courts may be appealed to the Council of State, whose judgment is final.

An exporter thus theoretically could file suit in the civil courts alleging that an OCCL decision to deny a license was arbitrary and an abuse of administrative power. It must be noted, however, that the likelihood of this occurring is slight; there are no known instances in which such a formal protest has been lodged against a decision of the OCCL.

Transshipment of Goods

This report has focused on the export from Belgium of war materiel that has been manufactured there. Belgium is, however, a major trading hub of Europe, indeed of the world. Much of its trading activity involves the transshipment of goods produced

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elsewhere, particularly through the port of Antwerp. In certain well-defined circumstances, war materiel being shipped through Belgium would become subject to the export-control system described above.

Specifically, if goods actually are unloaded from a ship or other carrier in Belgium, they are considered to have been imported, and any subsequent reexport is subject to Belgian law, unless they are unloaded in the free-port area of Antwerp. In this latter circumstance, the importer has 45 days within which to decide whether the goods will be imported into Belgium. Should they be reexported before such a determination and within the 45 days, export-control and customs laws would not apply. After this period has elapsed (or if the goods leave the free-port area beforehand), the reexport of any war materiel would require the normal export license.

CONCLUSION

Belgium maintains a flexible system of control over the export of war materiel by its active armaments industry by requiring that an export license and, in certain circumstances, an end use certificate be obtained. This license system is based upon the statutory authority to regulate exports. Licenses theoretically may be granted or denied under several broad criteria; the actual result depends primarily upon the political circumstances and character of the government in the intended country of destination.

For shipments of war materiel to Belgium's NATO allies and other Western nations, licenses are granted as a matter of course, and exports also are permitted to private concerns in these countries (provided the purchase is on behalf of a governmental entity). Conversely, licenses routinely will be denied for exports of war materiel to Warsaw Pact nations; to those with governments not recognized by Belgium; and to organizations, other than governments, anywhere outside the sphere of NATO and similar countries. With respect to the remainder of the globe, the Belgian Government is virtually unfettered by the pertinent law in its power to determine whether to issue a license or to require an end use certificate. In making these decisions, it uses such criteria as the nature and stability of the government in the country of destination; whether the country is involved in an armed conflict and, if so, under what circumstances; the anticipated official and public reaction, at home and abroad; domestic economic consequences; and the effect of permitting the export upon human rights and other values. Finally, an additional factor that is of distinct, and perhaps predominant, importance is the desire of the Belgian Government to restrict exports only to the extent necessary to remain in consonance with its partners in the European Community.

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BOX 1

The Co-ordinating Committee on Export Controls (COCOM)

In the years immediately following World War II, the heightening of tensions between the Western allies and the Soviet bloc, coupled with the burgeoning of new fields of advanced technology, prompted the United States assertively to advocate among its allies some form of multilateral export controls. As a result, in 1950, the Consultative Group was formed, together with its permanent working committee, the Co-ordinating Committee on Export Controls (COCOM). The membership today consists of the full NATO members (except Iceland) and Japan. There is no treaty and no formal structure; the system functions as a deliberative forum, headquartered in Paris, in which strategic trade matters are debated, and specific measures are recommended to control the export to Communist-bloc nations of equipment or technology, or both, that could contribute to the military capabilities of those nations. Unanimity is required for all decisions, but there are no effective means of enforcement.

The COCOM system is based upon three control lists of strategic items: Industrial-Commercial, Atomic Energy, and Munitions. These lists, which periodically are reviewed and updated, represent a consensus among COCOM members of the items that should be subjected to at least a minimum level of control. Each member publishes its own theoretically more extensive lists of strategic items and is responsible for devising its own system of controlling exports in accordance with its lists.

Belgium maintains a lengthy list of strategic goods and technology, the most recent of which was published in the Moniteur belge of December 3, 1982 (a new list is currently in preparation). Included in the Belgian list is an extensive list of war materiel ("materiel de guerre"). As discussed in the text of this report, the COCOM list performs a dual role. First, it lists the war materiel that may not be exported to Communist-bloc countries pursuant to Belgium's obligations under the COCOM system. It also serves, however, to indicate war materiel for which a license must be obtained before export to other parts of the world. For this purpose, the list is supplemented by a list of hunting and other small weapons, the most recent of which was published in December of 1985. A copy of the COCOM weapons list is included at Appendix D.

The same licensing system used for all exports, that established under the Law of 11 September 1962 and its implementing decree, is used to determine exports of strategic materials that will not be permitted to Communist-bloc nations. There are, of course, differences between regular export-control procedures and those relating to COCOM. For example, even if an item does appear on the COCOM list, the Belgian Government (the OCCL), on its own initiative may grant an "administrative exception" and permit the export. Should it prefer to do so, however, the OCCL may request that the MFA seek a "general exception" from COCOM itself through the Belgian liaison in Paris. If one or more members of COCOM objects to the export, negotiations are undertaken between Belgium and the objecting party or parties in an attempt to reconcile their differences. In the event that these negotiations prove unsuccessful, OCCL then may refuse the license, or it still may grant an administrative exception and issue the license. Although the same authorities are responsible for the regular export-control procedures and those relating to COCOM, each system reflects and implements different policies.

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Appendix A

Law on The Manufacture, Trade, and Carrying of Weapons
and on the Trade of Ammunition

3 January 1933

The focus of the Law of 3 January 1933 is upon the manufacture, possession, and movement of armaments within Belgium. It authorizes limited means of control, principally the registration of manufacturers of weapons (Articles 1 and 2) and limitations upon to whom weapons may be sold within Belgium (Articles 4, 5, and 8). As such, this early legislation has no direct bearing upon exports of war materiel, which in fact are excepted (Article 8) from the limitations otherwise placed upon the sale of "war firearms." It should be noted, however, that foreign purchasers of war materiel from Belgium who do so through the establishment of a subsidiary or a similar arrangement in Belgium must comply with the registration requirements.

The law establishes four categories of weapons--prohibited, defensive, war, and hunting and sports--and places limitations upon the possession and trade of each. An implementing royal decree specifies particulars of these limitations and the registration requirements (including sample forms), and sets sanctions. Numerous royal decrees over the years have classified individual weapons within the four categories. All of those classified as war weapons are small arms, and the law clearly never contemplated armour, artillery, or other large-scale weapons. Neither the implementing decree nor the numerous decrees classifying weapons have been reproduced here. A new law on this subject is currently under consideration by the Parliament.

Law on the Manufacture, Trade and Carrying of Weapons
and on the Trade of Ammunition (of 3 January 1933)

Albert, King of the Belgians,
To All Present and Future, Greetings.

The Houses have adopted and We approve the following:

Chapter I. General Provisions

Article 1. Are only authorized to manufacture or repair any type of firearms, or parts of such arms, to trade them, to manufacture ammunition or trade it, those persons who in accordance with the next article are registered as being a manufacturer, a dealer of weapons and ammunitions, or a gunsmith craftsman.

Article 2. The person concerned must register with the local authority of the district where his factory, shop, or workshop is located.

The authorities must enter the information on a special register and issue a certificate to the applicant.

Chapter II. Weapons

Section 1. Classification of Weapons

Article 3. Are considered as prohibited weapons: daggers, knives in the shape of a dagger with the exception of hunting knives, sword-sticks and gun-sticks, loaded sticks, folding guns of more than 20 mm caliber, rifles with barrels and butts that can be taken to pieces and concealed, or hidden offensive weapons that do not fall under the category of defensive or war weapons.

Are considered as defensive weapons: pistols, revolvers, and automatic pistols.

Are considered as war weapons, with the exception of pistols and revolvers, all rifled firearms or cold steel likely to be used as a soldier's equipment.

Are considered as hunting or sports weapons, those that do not fall under any of the above categories.

A royal decree will classify under one of the above categories any weapon of a type that cannot be clearly determined.

Section 2. Prohibited Weapons

Article 4. No person is allowed to manufacture, repair, offer for sale, sell, distribute, import, or transport prohibited

weapons, nor may such weapons be warehoused or carried by anybody.

In any of the cases listed above, such weapons will be seized, confiscated, and destroyed.

Under conditions to be specified by the government, that ban does not apply to folding rifles manufactured for export or to other prohibited weapons allowed to be manufactured for export purposes by royal decree.

Section 3. Defensive Weapons

Article 5. Except in the case of direct exports by the seller or by the person who transfers ownership, defensive firearms may only be sold or transferred to arms manufacturers or arms dealers, to gunsmiths, or to holders of an acquisition permit. That permit is issued by the chief of police or, when there is no chief of police, by the commander of the gendarmerie post of the area where the buyer has his domicile, and when the buyer does not reside in Belgium, by the chief of police or the commander of the gendarmerie post of the area where the seller or the person who transfers the ownership has his domicile.

If the authorization is denied, the petitioner may appeal to the Crown Attorney, who will have the power to grant the permit.

The sale or transfer of ownership of defensive weapons to persons under the age of 18 is prohibited.

Article 6. Persons who are not registered as being arms manufacturers, dealers, or gunsmiths may only import defensive firearms if they hold a permit of acquisition obtained as specified in Article 5 or if they hold an import permit.

Article 7. An individual may only carry a defensive weapon if he has a legitimate reason to do so and has obtained a permit that is issued by the Crown Attorney of the district where he has his domicile or by the Minister of Justice when the person does not reside in Belgium.

That permit, which may be revoked at any time, will specify the conditions under which the weapons may be carried.

The permit must be carried together with the weapon.

Section 4. War Weapons

Article 8. Except in the case of direct exports by the seller or

by the person who transfers ownership, war firearms may only be sold or transferred to arms manufacturers or arms dealers, to gunsmiths, and to holders of the permit mentioned in Articles 11 and 12.

Article 9. The only persons who are allowed to import war firearms are arms manufacturers or arms dealers, gunsmiths, and holders of the permit to carry an imported weapon mentioned in Article 11.

Article 10. Carrying a war weapon without legitimate reason is prohibited.

Article 11. It is prohibited for private individuals to have war firearms unless they are authorized to do so by the provincial governor.

Article 12. All collective training exercises intended to teach private individuals how to handle war firearms are prohibited.

However, the provincial governor may authorize the holding of such exercises on certain days and at appointed locations, and he will decide where the weapons and ammunitions must be kept when not in use.

Section 5. Hunting or Sports Weapons

Article 13. The carrying of a hunting or sports weapon is permitted only by those who have a legitimate reason for doing so.

Section 6. General Provision Applicable to Certain Weapons

Article 14. Anybody who is in possession or has acquired a defensive or war firearm without complying with the conditions stated in Article 5 must register that firearm in the manner and within a time limit that will be set by a royal decree.

That person will receive a certificate stating that he has complied with the required formalities. That certificate must be shown upon request.

Chapter III. Ammunitions

Article 15. The sale or transfer to a private individual of ammunitions for defensive or war weapons is prohibited except in the case of a weapon covered by the authorization mentioned in Articles 5 or 11, or a weapons registered as stated in Article 14, and providing that the certificate of registration is shown.

Chapter IV. Storing of Weapons and Ammunitions

Article 16. Except in the cases covered by Article 12, it is prohibited for someone who is neither an arms manufacturer nor an arms dealer to store defensive or war weapons without an authorization from the Crown Attorney who has the power to cancel it at any time.

This requirement also applies to the storing of ammunitions for the above-mentioned weapons.

Chapter V. Sanctions

Article 17. Violators of the provisions contained in the present law or in decrees enacted for its implementation will be liable to prison terms varying from 1 month to 1 year and to fines of between 100 to 500 francs, or just of one of these penalties.

The same penalties apply to those who, in the registration required under Article 2, make false claims of being a manufacturer, dealer, or gunsmith.

Article 42 of the Penal Code notwithstanding, a confiscation order may be issued even when the weapon does not belong to the guilty party.

Article 18. The provisions of Articles 198, 199, and 202 of the

Penal Code regarding the carrying of weapons are applicable to the authorizations required under the terms of the present law.

Article 19. Manufacturers and dealers of weapons and ammunitions as well as gunsmiths who are repeat offenders over a period of 2 years may be sentenced to have their factory, workshop, or shop closed on a temporary or permanent basis.

Article 20. All the provisions of Book 1 of the Penal Code that are not in conflict with the present law are applicable in the case of the violations stipulated under this law or under the regulations adopted for its implementation.

Article 21. The penalties provided under the General Law of 26 August 1822 and under the Law of 6 April 1843 to combat customs fraud are applicable to arms imports that violate the provisions of the present law or the regulations adopted for its implementation.

Chapter VI. Exceptions

Article 22. The prohibitions established under Articles 4, 8, and 11 of the present law do not apply to ornamental display weapons or collector weapons.

The provisions of the present law do not apply to orders of weapons and ammunitions placed by the state or by government agencies.

Nor do they apply to official agents or members of the police forces who carry regulation weapons while on duty or have in their possession a weapon entrusted to them by their department.

Chapter VII. Miscellaneous Provision

Article 23. In the event of riots, suspicious gatherings, or breaches of the peace, the burgomaster or the governor may issue and ammunitions and to transfer the weapons and ammunitions to a location selected by them. The state will compenstate the owners of the weapons and ammunitions taken away when they cannot be returned or when they are damaged.

Article 24. In addition to the other officers of the Criminal Investigation Department, the director and agents of the Testing Center and the inspectors of explosives, who are empowered to act as criminal investigation officers, may investigate and detect violations of the present law and of the regulations issued for its implementation.

Article 25. A royal decree will stipulate the formalities

required to ensure that records are kept for the sale or transfer of firearms or ammunitions from manufacturers, dealers, or gunsmiths to private individuals or among themselves.

Article 26. The government may broaden the scope of the provisions of Articles 1, 5, 6, 8, 9, 11, 14, 25 to cover, in full or in part, weapons other than firearms.

Article 27. A royal decree will lay down the measures of implementation for the present law, in particular:

- 1) The period of time allowed those concerned to comply with the registrations required under Article 2;
- 2) The format of the register and the contents of the registration and certificate required under Article 2;
- 3) The format of the documents required under Articles 14, 15, and 16.

Article 28. Article 316 and 318 of the Penal Code, the Declaration of the King of 23 March 1728, the Decree of 2 Nivose (fourth month of the French Republican Calendar) Year XIV, and the Law of 6 May 1876 are abrogated.

We issue the present law and order it to be stamped with the state seal and published in the MONITEUR.

All

Issued in Brussels, on 3 January 1933.

Albert

On Behalf of the King:

The Minister of Justice, P.-E. Janson

Stamped with the seal of the State, the Minister of Justice, P.-
E. Janson.

APPENDIX B

Law of 11 September 1962 on the Import, Export,
and Transit of Goods

and

Law of 19 July 1968 Amending the Law of 11 September 1962
on the Import, Export, and Transit of Goods

LAW OF 11 SEPTEMBER 1962
on the Import, Export, and Transit of Goods

BAUDOUIN, King of the Belgians,

To all, present and future, greetings.

The Houses of Parliament have adopted and we approve the following:

Article 1. For the implementation of the present law, one must define as:

a) goods: all items considered as such under the terms of the customs legislation, with the exception of gold coins or ingots; currencies, both coins and bills, that are legal tender in Belgium or abroad; and also all types of securities, Belgian or foreign, public or private, that are in the nature of bearer bonds or bearer securities.

b) import, export, and transit: operations that are considered to be such for the implementation of customs legislation.

Article 2. By decree drafted in consultation with the Council of Ministers, the King may regulate the import, export, and transit of goods, in particular by means of a systems of licenses, by charging special duties, and by requiring certain formalities such as a certificate of origin. He may do so either:

to safeguard the vital interests of a specific economic sector or those of the national economy as a whole; or

to safeguard the internal or external security of the country; or

to ensure the implementation of treaties, conventions, or agreements signed for an economic purpose or dealing with security, and the implementation of decisions or recommendations of international or supranational organizations.

Article 3. Within the scope of the powers granted to him by virtue of Article 2, the King may authorize the ministers named by him to impose a license requirement for the import, export, and transit of goods.

Article 4. The King will decide the general conditions for the granting and use of such licenses.

Article 5. The King can establish the payment of an official fee for the making of an application or the issuance of the license forms.

Article 6. Without prejudice to the general conditions set by the King, the appropriate ministers, acting in cooperation and up to the moment when the licenses are issued, may impose special requirements for the delivery and use of such licenses, either by means of regulations or through instructions issued to the departments that issue these licenses. These special requirements may include the obligation to use the license within specific limits.

Article 7. When justified by special circumstances, the appropriate ministers, acting together, may issue a reasoned

order revoking the validity or ordering the cancellation of current licenses falling under specific categories. The decrees enacted to implement the present article may include special provisions, mainly in favor of goods that already are in transit. Article 8. The King will name the goods for which the import or export is subject to special duties.

He will determine the conditions under which such duties will be collected and refunded.

He may ask the minister or ministers appointed by him to set the amount of the duties or the method of calculating them and the modes of application.

All decrees enacted in the course of one year to implement the present article are to be submitted to the legislative houses for approval during the following year, except for those issued to implement provisions enacted by international or supranational bodies.

Article 9. The Royal decrees adopted in accordance with Articles 3, 4, 5, and 8 will be discussed in the Council of Ministers.

Article 10. Violations of or attempts to violate the provisions adopted in accordance with the present law will be punished as provided for in (Articles 231, 249-253, and 263-284 of the General Law on Customs and Excise; as amended by the Law of 6 July 1978).

Any shipment, transportation, or possession of goods obviously intended to result in an import, export, or transit

under conditions violating the provisions adopted on the basis of the present law will be considered as attempts to violate as mentioned in the first paragraph.

Without prejudice to the powers of the officers of the Criminal Investigation Department and of the agents of the Customs and Excise Service, agents specially assigned to that task by the appropriate minister have the authority to investigate and ascertain even on their own violations of the provisions adopted on the basis of the present law.

Article 11. The Law of 30 June 1931 relating to the import, export, and transit of goods, amended by the Law of 30 July 1934, is repealed.

We promulgate the present law, and order it stamped with the state seal and published in the Moniteur belge.

Issued in Zarauz (Spain), on 11 September 1962.

BAUDOUIN

On behalf of the King:

The Minister of External Commerce and Energy, absent,

The Assistant Minister of Finance, F. TIELEMANS

Witnessed and stamped with the seal of the State,

The Minister of Justice, P. VERMEYLEN

LAW OF 19 JULY 1986

Amending the Law of 11 September 1962 on the
Import, Export, and Transit of Goods

BAUDOUIN, King of the Belgians,

To all, present and future, greetings.

The Houses of Parliament have adopted and we approve the following:

Article 1. Article 2 of the Law of 11 September 1962 on the import, export, and transit of goods is completed by the following passage: "or to contribute to the observance of the general principles of law and of humanity recognized by civilized nations."

Article 2. Article 7 of the Law of 11 September 1962 may be applied to licenses granted before the present law went into effect in order to contribute to the observance of the general principles of law and of humanity recognized by civilized nations.

Article 3. The present law goes into effect on the day of its publication in the Moniteur belge.

Issues in Bormes (France), on 19 July 1968.

BAUDOUIN

On behalf of the King:

The Vice Minister and Minister of Economic Affairs, J. MERLOT

The Minister of Foreign Affairs, P. HAEMEL

Witnessed and stamped with the seal of the State: the Minister
of Justice, A. VRANCKX

Appendix C

Royal Decree of 24 October 1962

Regulating the Import, Export, and Transit of Goods

Royal Decree of 24 October 1962

Regulating the Import, Export, and Transit of Goods

Baudoiu, King of the Belgians,

To all, present and future, greetings.

Considering the Law of 11 September 1962 on the import, export, and transit of goods;

Considering the Convention of 23 May 1935 instituting between Belium and the Grand Duchy of Luxembourg a common regime in matters regulating to imports, exports, and transit, approved by the Law of 26 July 1935;

Considering the Royal Decree of 27 January 1938 creating a Central Office of Quotas and Licenses;

Considering the advice of the Belgian-Luxembourg Mixed Administrative Commission;

Considering the advice of the Council of State;

At the proposal of our Minister of Finance, our Minister of Agriculture, our Minister of Economic Affairs and Energy, and our Minister of External Commerce and Technical Assistance, and the advice of our Ministers who have deliberated in Council,

We have decided and we decree:

Article 1.

Para. (1) After obtaining the approval of the Interministerial Economic Commission, or as an act of implementation of a decision adopted by the Ministerial Committee for Economic and Social Cooperation, the ministers responsible for economic affairs and external commerce, and the minister of agriculture if the matter involves products falling within his area of responsibility, may decide jointly to require licenses for the import and export of certain goods.

They may apply license system to goods originating in, coming from, or going to whichever countries they decide and to goods imported or exported by persons who are not established in Belgium or in the Grand Duchy of Luxembourg.

Para. (2) After obtaining the approval of the Interministerial Commission or as an act of implementation of a decision adopted by the Ministerial Committee for Economic and Social Cooperation, the minister of economic affairs may decide to require a license for the transit of certain goods. He may apply that license system to goods coming from or going to whichever countries he decides.

Article 2. A license request should be made to the Central Office of Licenses and Quotas using application forms issued by that office.

It must mention all the facts concerning the intended transaction and must be signed by a qualified person who vouches for the accuracy of all the information supplied in the request and of all the attached documents.

Article 3. The licenses must indicate the name of the individuals or corporations to whom they are issued. It is prohibited to transfer them to someone else or to accept one issued to someone else.

However, the person named in the license may authorize the buyer or seller of the commodity for which the license has been issued to use it at the customs. The license holder must mention that fact in the license. That authorization does not imply transfer of the license.

Article 4. Without prejudice to the provisions of Article 7 of the Law of 11 September 1962, the licenses are only valid for the transaction for which they were issued and for the specified period of time.

They can only be used under the general conditions stated in the present decree and the special conditions set in accordance with the provisions of Article 6 of the Law of 11 September 1962.

Article 5.

Para. (1) Without prejudice to the provisions of Article 1 of the Law of 20 December 1897 on curbing fraudulent actions on the import, export, and transit of prohibited goods, which was amended by the Law of 30 June 1951, the following are void:

- 1) Licenses obtained as a result of inaccurate or willfully incomplete statements;
- 2) Licenses used to cover transactions other than the ones for which they were issued;
- 3) Licenses where the conditions established when they were issued are not observed by the license holder.

Para. (2) As soon as he receives the first notification from the Central Office of Quotas and Licenses, the holder of a void license must send it to that office.

The agents appointed in accordance with Article 10 of the Law of 11 September 1962 and agents of the Customs and Excise Service are authorized to collect and withhold void licenses.

Article 6. As soon as the period of validity of a license expires, the license holder must send back to the Central Office of Quotas and Licenses any license which he might still have in his possession.

Article 7. The Customs and Excise Service will keep licenses which have been checked or are out of date and will send them back to the Central Office of Quotas and Licenses.

Article 8. Licenses issued under the joint Belgian-Luxembourg system established by the Convention of 23 May 1935 will be marked, at the request of the applicant, with a license stamp issued by the Joint Belgian-Luxembourg Administrative Commission according to rates of charges set by royal decree.

Article 9. Violations and attempts to violate the provisions of the present decree and of decrees adopted as a result of this one will be punished in accordance with the provisions of Article 10 of the Law of 11 September 1962 on the import, export, and transit of goods.

Article 10. The Royal Decree of 17 January 1955 relating to the import, export, and transit of goods is repealed.

Article 11. The present decree will enter into force on the day in which the Law of 11 September 1962 on the import, export, and transit of goods enters into force.

Article 12. Our Minister of Finance, our Minister of Agriculture, our Minister of Economic Affairs and Energy, and our Minister of External Commerce and Technical Assistance are instructed to implement, in the own area of competence, the present decree.

Issued in Brussels, on 24 October 1962.

Baudouin

On behalf of the King:

The Minister of Finance, A. Dequae

The Minister of Agriculture, Ch. Heger

The Minister of Economic Affairs and Energy, A. Spinoy

The Minister of External Commerce and Technical Assistance,
M. Basseur

D

Appendix D

Lists Of War Materiel

War Materials

Technology Support

1. Small firearms and automatic firearms, such as:
 - a) rifles, carbines, revolvers, pistols, submachine guns, and machine guns, with the exception of antique small firearms dating back to before 1890 and reproductions of such firearms.
 - b) their special components and parts, such as barrels, cylinders, and breeches.

2. Large-caliber arms and weapons; smoke, gas, and flame-throwers, etc., such as:
 - a) cannons, howitzers, mortars, artillery pieces, anti-tank guns, projectile and rocket launchers, flame-throwers, recoilless cannons;
 - b) military equipment to launch smoke, gas, or military pyrotechnic materials;
 - c) their special components and parts.

3. Ammunitions intended for the weapons listed in Articles 1 and 2 above, and their special parts.

4. Bombs, torpedoes, rockets, and guided or non-guided missiles, such as:

- a) bombs, torpedoes, grenades (smoke-grenade included), smoke canisters, rockets, mines, guided or non-guided missiles, depth charges, incendiary bombs and charges, devices and equipment used for military demolition work, signalling rockets for military use, pyrotechnic cartridges and simulators; also, their special components and parts.
- b) instruments and devices specially designed to operate, control, prime, launch, aim, drag, discharge, detonate, or detect the items mentioned in paragraph a) above, as well as their special parts and components;
- c) jelling agents for military use, particularly compounds (such as octal) or mixtures of these compounds (such as napalm) specially devised to produce substances that, when mixed with petroleum products, result in an incendiary jelled fuel used for bombs, projectiles, flame-throwers, or other war materiel.

5. Fire-control equipment and telemeters, such as:

- a) fire-control equipment, collimating sights, sighting

equipment for night fire, and missile-tracking and guiding instruments;

- b) telemeters, position indicators, altimeters, and instruments for fire-adjustment specially designed for military uses;
- c) electronic, gyroscopic, acoustic, and optic fire-aiming instruments specially designed for military use;
- d) bombing sights, bombing calculators, sighting gear for cannons, and periscopes specially designed for military use;
- e) television instruments for fire-adjustment specially designed for military use;
- f) components, parts, accessories, and auxiliary instruments specially designed for the items mentioned in paragraphs a), b), c), d), and e) above.

6. Tanks and vehicles specially designed for military use, such as:

- a) tanks and motorized artillery pieces;
- b) armed or armored military vehicles and vehicles equipped with platforms for mounting weapons;
- c) armored trains;
- d) military half-track vehicles;
- e) military recovery vehicles;

- f) gun carriages and tractors specially designed to tow artillery pieces.
- g) trailer-trucks specially designed to transport ammunitions;
- h) amphibious vehicles and military vehicles capable of fording deep waters;
- i) mobile repair shops specially designed for the maintenance of military equipment;
- j) all other special military vehicles;
- k) tires (except the types used for tractors and agricultural equipment) that are bullet-proof and can rotate when flat;
- l) engines for the vehicles listed in paragraphs a) to j) above and that are specially designed or essentially modified for military use; also, their components;
- m) their special parts and components, with the exception of the engines.

7. Toxic agents and tear gases, such as:

- a) biological, chemical, and radioactive substances adapted to produce destructive effects on humans, animals, or harvests in the event of war;
- b) equipment specially designed for and intended to spread the substances listed in paragraph a) above;

- c) equipment specially designed for and intended to protect against the substance listed under paragraph a) above, as well as to detect and identify such substances;
 - d) components and parts specially designed for the items mentioned in paragraphs b) and c) above;
8. Gunpowders, explosives, propellant agents, and fuels such as:
- a) gunpowders and liquid or solid propellant agents intended for the equipment listed under Articles 3, 4, and 7, and also their stabilizers;
 - b) powerful military explosives and their stabilizers;
 - c) high-power and chemical-based solid or liquid fuels including aviation fuels specially produced for military uses.
9. Warships and special naval equipment, such as:
- a) fighting ships or ships designed for attack or defense purposes (surface or submarine vessels) whether or not they have been modified for commercial use and regardless of what their state of maintenance or service is; also their hulls and hull parts;
 - b) the following engines:
 - 1) diesel engines of 1,500 HP or more with a rotation speed of 700 rpm or more that are specially designed

for submarines;

- 2) electric engines specially designed for submarines, that is to say, engines of more than 1,000 HP with fast reversal and with liquid and closed cooling systems;
- 3) a-magnetic diesel engines of 50 HP or more specially designed for military use.

Note: an engine will be considered as having been specially designed for military use if:

- i) it contains a-magnetic parts other than the crankcase, the engine block, the cylinder head, the pistons, hoods, side plates, valve linings, cylinder head gaskets, supply pipes for fuel and lubricant and other supply pipes, or
 - ii) when more than 75 percent of its mass is a-magnetic.
- c) submerged detection instruments of the magnetic type and operating by pressure or by acoustics that have been specially designed for military purposes; their control systems and their parts;
 - d) underwater nets;
 - e) compasses and their accessories, direction finders

specially designed for submarines;

- f) components, parts, and accessories such as conning towers, naval gun carriages, submarine batteries, and catapults.

10. Airplanes and helicopters of the types that operate with or without a pilot, engines for planes and helicopters, aeronautical equipment, and related equipment and spare parts, specially designed for military use, such as:

- a) combat planes and helicopters and other planes and helicopters specially designed for military use, in particular those designed for reconnaissance, attack, military training, and logistic support; also all planes and helicopters with special construction features such as multiple hatches, special doors, ramps, reinforced floors, etc., that make them suitable to transport and parachute troops, military equipment, and supplies; plane and helicopter engines specially designed or modified for such aircraft with the exception of engines for the planes and helicopters subject to an exemption under the terms of Article 1460-c, and their special parts;
- b) airborne equipment, in particular aircraft refuelling equipment specially designed for the planes and helicopters and for the engines of the types of planes

and helicopters listed under paragraph a) above; also their parts;

- c) instruments to refuel planes and helicopters; devices and instruments operating under pressure; devices specially designed to operate in small confined areas and ground equipment not listed elsewhere that is specially designed for the planes and helicopters listed under paragraph a) or for their engines;
- d) air conditioning systems; partly pressurized flight clothing; anti-gravity flying suits; military protective helmets; parachutes used for combat troops, for drops of equipment, and for aircraft deceleration; liquid oxygen converters for planes, helicopters, and missiles; cartridge-operated catapulting and ejection devices used for emergency crew rescue.

11. Electronic equipment specially designed for military use; their parts and components.

12. Photographic equipment, such as:

- a)
 - 1) Aerial photography cameras and related items designed and used for military purposes.
 - 2) Equipment to develop and print film that has been specially designed and used for military purposes.

- b) other photographic equipment and other equipment to register on film that is specially designed and used for military purposes; also, equipment specially designed to use the registered data for military applications;
- c) special components and parts.

13. Special armored equipment, such as:

- a) armored plates;
- b) military helmets;

Note: the above paragraph does not apply to the standard steel helmet that is not fitted with additional devices not modified or designed to be fitted with such devices.

- c) bullet-proof clothing;
- d) components and special parts for the material mentioned in paragraph c) above.

14. Special equipment for military training such as:

- a) special equipment for military training;
- b) components, parts, and accessories, as well as any auxiliary equipment specially designed for such equipment.

15. Infrared equipment and image-enlarging equipment for

military use and the special components of such equipment. (See also Articles 1502, 1555, and 1556.)

16. Components and materials for war material, such as:

- a) brass and bronze parts for detonator caps and pieces for bullet receptacles (gilding metal), chain links, receptacle for detonators, and shell bands;
- b) copper bands for shells and copper-made elements of war materials;
- c) gilding metal;
- d) unprocessed wrought steel pieces or castings made of steel or other metal alloys intended for artillery equipment or for weapons.

17. Other equipment or materials, such as:

- a) The following self-contained equipment for underwater diving and swimming:
 - 1) close or semi-close circuit apparatus (with air regeneration);
 - 2) special components allowing the open circuit apparatus to be put to military use;
 - 3) parts exclusively designed for military use in self-contained underwater diving and swimming apparatus;

- b) bayonets;
- c) silencers for firearms;
- d) projectors with electric controls and their control units designed for military purposes;
- e) construction material made according to military requirements and specially designed to be transported by air.

18. Machinery, equipment, and tools specially designed for the study, manufacture, testing, and control of weapons, ammunitions, devices, and instruments contained in this list.

19. Pressure-chambers capable of reaching pressures of less than 10^{-4} toors and their special parts, components, and auxiliary equipment.

20. Cryogenic equipment, such as:

- a) equipment designed to keep the surrounding temperature below -170 degrees C. (-274 degrees F.)
 - 1) intended for maritime, air, or space use, or
 - 2) reinforced for mobile use on the ground.
- b) electric, magnetic, or electronic equipment or components and electric conductors specially designed for constant or intermittent operation at temperatures of less than

-170 degrees C (-274 degrees F), such as:

1) metals, alloys, compounds, heterogeneous elements, and
supraconductor interpolated materials, with the
exception of:

- i) supraconductor wire with a filament cross-section
area of 4.42×10^{-3} square mms (or a diameter of
75 microns) or more;
- ii) supraconductor wire of niobium-titan with a
filament cross-section area of 1.26×10^{-3} square
mms (or a diameter of 40 microns) or more in a
copper matrix.

2) the following components;

- i) Josephson effect mechanisms
- ii) Dayem mechanisms
- iii) proximity effect bridges
- iv) SNS (super-normal-super) proximity mechanisms
- v) memory and logical mechanisms
- vi) phase-sliding mechanisms

3) supraconductor electromagnets (containing
supraconductor solenoids) designed to produce a peak
magnetic flux of 3 Telsa (30 kilogauss) or more with
global current densities of 10,000 amperes per cm^2 or
more and their special components, with the exception
of those specially designed:

- i) to be totally charged-uncharged in less than one

minute, or

- ii) to be suitable for use in gyrotrons, with the exception of those specially designed to be charged-uncharged in less than one minute and presenting the following characteristics:
 - a) coiled with wires, cables, or bands made of niobium-titan superconductor filaments in a copper matrix;
 - b) an inside diameter of less than 6 cms.;
 - c) maximum energy released by impulsion divided by the duration of the impulsion not surpassing 500 kilojoules per minute.

Note: "the global current density" is defined as the total number of ampere-turns in the coil (that is to say, the number of turns multiplied by the maximum current carried by each turn) divided by the total transversal section of the coil (consisting of the superconductor filament, the metal matrix enclosing the superconductor filament, the encasing material, the cooling system, etc.).

- 4) superconductor electric equipment (rotating machines and transformers) and their special components, with the exception of:
 - i) superconductor electric equipment intended for

civilian transmission and distribution of electric power;

ii) hybridized homopolar generators of continuous current fitted with an ordinary metal casing with a single pole operating at normal temperature and rotating in a magnetic field produced by supraconductor coils when those coils are the only supraconductoe element of the generator.

c) Accessories, sub-units, parts, and components specially designed for the equipment listed in paragraphs a) and b) above.

22. Electrically triggered shutters (obturators) of the carbon-injection type or photochrome function type, with a shutter speed of less than 100 microseconds, with the exception of shutters that are standard part of fast-speed photo cameras.

SCHEDULE I

Goods Subject to Export License

Inventory Number	Entrance Fee Tarrif No.	Designation of Goods
	93.02	Revolvers and pistols:
	A	calibre of 9mm or less:
9302102	I	automatic
9302109	II	others
	B	others:
0302902	I	automatic
9302909	II	not designated
	93.03	War Weapons (other than those listed under 93.01):
9303002	A	rifles and carbines
9303004	B	small-calibre automatic weapons
ex-9303009	ex-C	other small arms

	93.04A		Rifles and carbines for hunting & target shooting:
9304200	I		front loaders;
	II		others;
		a	with one barrel:
9304300		1	with smooth barrel
		2	with rifled barrel
9304410		aa	with finger firing
9304490		bb	others;
9304500		b	with two smooth barrels
9304600		c	not designated
ex-9306100	ex-93.06A		Detached parts and pieces for war weapons listed under No. 93.02
9306350	93.06BIIa		Other detached parts and pieces for weapons listed under No. 93.02
	ex-93.06BIIb		Other parts and pieces, not designated, for small arms:
ex-9306410		1	barrels, including

			their skeletons
ex-9306450	2		butts
ex-9306490	3		others
	93.07		Projectiles and
			ammunitions, mines
			included; detached parts
			and pieces, including
			buckshot, leadshot, and
			wadding for cartridges:
9307100	A		for revolvers and
			pistols listed under
			No 93.02 and for
			submachine guns for
			No. 93.03;
	B		others:
		I	for war weapons:
9307310		a	cartridges for hunting
			and target shooting:
		l	with central firing
			percussion:
9307410		aa	for weapons with rifled
			barrel
9307450		bb	for weapons with smooth
			barrel

	2	with finger firing:
9307470	aa	for weapons with rifled barrel
9307490	bb	for weapons with smooth barrel
	b	others:
9307510	1	bullets, buckshot, and leadshot for hunting or target shooting cartridges
9307520	2	cartridge cases for hunting or target shooting
9307530	3	projectiles for rifles, carbines, and pistols operated by spring, compressed air, or gas action
9307550	4	propellent charges (cartridges) for riveting gun of No. 8204 and slaughtering pistols
9307990	5	others.

Reviewed to be attached as an annex to the Ministerial Order of
24 September 1985:

The Minister of Economic Affairs, M. Eyskens

The Secretary of State for Foreign Trade, A. Kempinaire

The Secretary of State for European Affairs and Agriculture

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