

Arms Trade Order of 20 July 2012: Consolidated version in light of the draft Government of Flanders Order amending the Arms Trade Order of 20 July 2012 and the Government of Flanders Order of 14 March 2014 regulating the export, transit and transfer of dual-use items and the provision of technical assistance

PART 1. - General framework and definitions

Article 1. The present Order shall be referred to as the Arms Trade Order of 20 July 2012.

Art. 2. As far as the competences of the Flemish Region are concerned the present Order provides for the further transposition of Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community, of Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons and of Council Directive 93/15/EEC of 5 April 1993 on the harmonisation of the provisions relating to the placing on the market and supervision of explosives for civil uses.

Art. 3. For the purposes of the present Order, the following definitions shall apply:

1° competent unit : the Secretary-General of the Flanders Department of Foreign Affairs and the personnel under the authority of and designated by the Secretary-General;

2° Common Military List of the European Union: list of goods to which Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment applies, as last published in the Official Journal of the European Union;

3° Minister: the Flemish Minister who exercises authority over the competent unit referred to in 1°;

4° non-essential components: the components referred to in the Common Military List of the European Union, the nature and significance of which are limited in relation to the defence-related products into which they will be integrated.

Art. 4. The licences, prior authorisations, certificates as a certified person, preliminary opinions and written confirmations referred to in Articles 9, 10, 15, 16, 22, 23, 34 and 38 of the Arms Trade Decree shall be granted and denied by the Minister, after having received an opinion from the competent unit.

Licences, prior authorisations, certificates as a certified person, preliminary opinions and written confirmations shall be communicated by the competent unit by ordinary or registered letter.

However, the Minister can also decide that the documents referred to in the first sub-paragraph can also be communicated via electronic means.

Licences, prior authorisations, certificates as a certified person, preliminary opinions and written confirmations shall be suspended, revoked and restricted in conformity with Articles 46 through 49.

Art. 5. § 1. In order to be admissible, an application for a licence, a prior authorisation, a certificate as a certified person, a preliminary opinion or a written confirmation and a notification or registration must be submitted to the competent unit by ordinary or registered letter.

A notification or an application for an open licence can also be delivered by fax or electronically, if that produces an acknowledgement of receipt from the addressee.

The Minister can decide that an application for a different type of licence, a prior authorisation, a certificate as a certified person, a preliminary opinion, a written confirmation or a registration can also be submitted by electronic means.

In case of an electronic submission, the competent unit shall issue the person concerned with an acknowledgement of receipt by fax or electronically after having received a complete application or notification, if that produces an acknowledgement of receipt from the addressee.

§ 2. The competent unit shall make forms available on the website of the Flemish public administration which are to be used to apply for a licence, a prior authorisation, a certificate as a certified person, a preliminary opinion and a written confirmation and to issue a notification or registration.

Art. 6. If the competent unit deems it useful in view of the supervision of compliance with the Arms Trade Decree and the present and other implementing orders thereof or with acts done on the basis thereof, it can deliver a notification of the following acts to other relevant government bodies, including the licensing services of the other Regions, the General Administration of Customs and Excise Duties of the FPS Finance, the Federal Arms Service of the FPS Justice, State Security, the Firearms Testing Centre, the public prosecutor of the district where the person concerned is established, the federal police, the local police, the provincial governor of the province where the person concerned is established and the respective competent international and foreign authorities:

- 1° applications, grants and denials of licences, prior authorisations and certificates as a certified person;
- 2° confirmations of notifications and registrations;
- 3° preliminary opinions and written confirmations issued;
- 4° issued suspensions, revocations and restrictions of the documents referred to in 1° and any extensions, abrogations or restrictions thereof;
- 5° issued temporary exclusions and any extensions, abrogations or restrictions thereof;
- 6° administrative sanctions imposed.

Art. 6/1. The competence delegated to the Government of Flanders in application of Article 3, § 5 of the Arms Trade Decree, shall be delegated to the Minister.

PART 2. - Import, export, transit and transfer of defence-related products, other materials for military use and law enforcement equipment

TITLE 1. - Licence requirement

CHAPTER 1. - Lists of goods

Art. 7. In application of Article 3, § 1, third sub-paragraph of the Arms Trade Decree, the import, export, transit and transfer of the defence-related products, law enforcement equipment, civilian firearms, components, ammunition and other goods referred to in the list, included in Annex 1 of the present Order, shall be prohibited.

In application of Article 7, § 2, second sub-paragraph of the aforementioned Decree, prior notification shall be required for the transfer to the Flemish Region of the defence-related products referred to in the list, included in Annex 2 of the present Order.

In application of Article 8, § 3, second sub-paragraph of the aforementioned Decree, a licence shall be required for the import of the defence-related products and law enforcement equipment referred to in the list, included in Annex 2 of the present Order.

In application of Article 8, § 1, second sub-paragraph, and § 2/1 of the aforementioned Decree, a licence shall be required for the export and transit of law enforcement equipment referred to in the list, included in Annex 3 of the present Order.

Art. 8. The Minister shall be authorised to update the references to international agreements and to the Common Military List of the European Union in the lists referred to in Article 7, in such a manner that they correspond strictly to the respective international agreements and the Common Military List of the European Union.

CHAPTER 2. - General licences

Art. 9. § 1. In application of Article 14, § 2 of the Arms Trade Decree and based on the general licences listed in Annexes 5 through 9 of the present Order, the defence-related products referred to therein can be transferred to other EU Member States directly and without any further licence, subject to the terms and conditions stated in paragraphs 2 and 3.

§ 2. In application of Article 12, § 1 of the aforementioned Decree, the use of the general licences referred to in paragraph 1 shall be subject to the following terms and conditions and restrictions:

1° the general licences must not be used for the transfer for permitted purposes of defence-related products, the transfer of which is prohibited on the grounds of Article 3, § 1, first sub-paragraph of the aforementioned Decree;

2° the general licences must not be used for the permanent transfer of defence-related products if, at the time of the intended transfer, it is an established fact that the end use of the defence-related products will take place outside of the European Union and the end user outside of the European Union is known at that time, unless:

a) said end user is a formal part of the armed forces of a Member State of the EU or NATO;

b) the export is essential for the implementation of the intergovernmental cooperation programme between EU Member States concerning the development, production and use of one or more defence-related products to which the respective transfer is linked;

c) the country of end use is a member country of NATO, a Participating State to the Wassenaar Arrangement, referred to in Article 16 of the present Order, or a friendly or allied country as referred to in Article 26, § 4, first sub-paragraph of the aforementioned Decree;

d) the transfer concerns non-essential components which the consignee will fully integrate into their own product;

3° defence-related products that are transferred to another Member State on

the basis of a general licence must not be used in or exported to a country outside of the European Union for the integration into or the use, development or production of defence-related products, the transfer of which is prohibited on the grounds of Article 3, § 1, first sub-paragraph of the aforementioned Decree;

4° defence-related products, which, on the basis of a general licence, are temporarily transferred to another Member State must be re-transferred to the Flemish Region no later than three years after the temporary transfer.

Persons using a general licence in the case referred to in the first sub-paragraph, 2°, b) shall keep written proof that the export is essential for the implementation of the intergovernmental cooperation programme to which the respective transfer is linked.

Persons using a general licence in the case referred to in the first sub-paragraph, 2°, d) shall keep a written declaration from the consignee in which the latter declares that the components concerned will be integrated into their own product.

Persons using a general licence in the case referred to in the first sub-paragraph, 4° shall keep written proof of the re-transfer.

§ 3. In addition to the terms and conditions referred to in paragraph 2, the terms and conditions and restrictions referred to in Articles 10, 14 and 49 of the Arms Trade Decree and in Articles 5, 10, 11, 12, 29, 30, 31, 57, 58 and 60 of the present Order shall also be attached to the use of the general licences referred to in paragraph 1.

If a person using a general licence obtains information on the change of purpose, destination or export of the goods transferred within three years after a permanent transfer on the basis of said general licence, they shall inform the competent unit thereof.

Art. 10. § 1. For purposes of admissibility, the competent unit must receive the registration referred to in Article 14, § 6 of the Arms Trade Decree no later than twenty working days before the first intended transfer on the basis of the general licence concerned.

The registration shall contain at least the following information:

- 1° the details of the person concerned;
- 2° if applicable, the details of the representative of the person concerned;
- 3° the number of the general licence for which registration is requested;
- 4° the technical details of the defence-related products for which the person concerned wants to use the general licence:
 - a) a technical description of the products;
 - b) an initial classification of the products according to the categories of the Common Military List of the European Union;
- 5° the utilisation of the defence-related products, viz. a description of the use for which the products were designed or modified;
- 6° if applicable, a description of the possible applicability of Article 9, § 2, first sub-paragraph, 2°, d) of the present Order;
 - 6°/1 a description of the intergovernmental cooperation programme to which intended transfers are linked, if applicable;
- 7° the signature of the persons designated as being personally responsible for import, export, transit and transfer;
- 8° those persons' commitment:
 - a) to allocate a purpose to the defence-related products concerned in accordance with the terms and conditions and restrictions associated with the use of the general licences;
 - b) if applicable, to fulfil the obligations which the customs regulations, the Arms

Act of 8 June 2006 and its implementing orders, and other applicable regulations attach to the transfer concerned.

§ 2. Any useful information on the technical properties and possibilities of the defence-related products concerned and the possible utilisation thereof shall be enclosed with the application.

The following documents shall also be enclosed with the registration:

- 1° a copy of the applicant's prior authorisation referred to in Article 10 of the Arms Trade Decree;
- 2° if applicable, the documents showing the possible applicability of Article 9, § 2, first sub-paragraph, 2°, d) of the present Order;
- 3° proof of the intergovernmental cooperation programme to which intended transfers are linked, if applicable.

§ 3. After having received a complete registration, the competent unit shall provide the person concerned with an acknowledgement of receipt.

§ 4. Within ten working days after the date of the acknowledgement of receipt referred to in paragraph 3 the competent unit shall provide the person concerned with a confirmation of their registration by ordinary or registered letter.

The registration confirmation shall contain at least the following information:

- 1° the details of the competent unit;
- 2° a registration number that must be mentioned on all trade documents enclosed with supplies on the basis of the general licence concerned;
- 3° the details of the person concerned;
- 4° if applicable, the details of the representative of the person concerned;
- 5° the indication of the defence-related products to which the registration applies:
 - a) a technical description of the products;
 - b) the classification of the products according to the categories of the Common Military List of the European Union;
 - c) the allocation, per product, of a product code, on the grounds of which the reports referred to in Article 49 of the Arms Trade Decree and in Articles 57, 58 and 60 of the present Order must be made;
- 6° if applicable, the confirmation that the defence-related products actually fall within the scope of Article 9, § 2, first sub-paragraph, 2°, d) of the present Order;
- 7° if applicable, a reference to the terms and conditions and restrictions attached to the use of the general licence referred to in Articles 9 and 12 of the present Order;
- 8° if applicable, a reference to the restrictions that, in application of Article 43 of the Arms Trade Decree, are attached to the use of the general licence, as referred to in Article 13 of the present Order.

If further examination of the possible applicability of Article 9, § 2, first sub-paragraph, 2°, d) of the present Order is deemed necessary, the competent unit shall provide the confirmation referred to in the second sub-paragraph, 6°, if applicable, no later than thirty working days or, subsequent to substantiation of the necessity, ninety working days after the date of the acknowledgement of receipt referred to in paragraph 3.

Art. 11. If a certain transfer falls within the scope of several general licences, preferential use shall be made of the general licences for the cases referred to in Article 14, § 2, 3° and 4° of the Arms Trade Decree and, subordinately, of the general licence for the case referred to in Article 14, § 2, 5° of the aforementioned Decree.

Art. 12. § 1. The general licence for the case referred to in Article 14, § 2, 3° of the aforementioned Decree must only be used for temporary transfers for demonstration, evaluation or exhibition purposes.

In the case of demonstration, evaluation or exhibition, the defence-related products concerned must not be part of a production process and must not be used for their intended purpose unless only to a limited extent which is required for effective demonstration, evaluation or exhibition purposes.

After the demonstration, evaluation or exhibition, the defence-related products concerned must be re-transferred to the Flemish Region in their original state, and no component or software must be removed, copied or disseminated, with the exception of damage that occurs due to the normal use of the products for demonstration, evaluation or exhibition purposes.

In the first, second and third sub-paragraphs the following definitions shall apply:

1° demonstration: a closed presentation of defence-related products in a non-public space to any particular consignee or any number of particular consignees;

2° evaluation: the use of defence-related products for their intended purpose to the limited extent required to assess the technical and operational properties and capacities of the products concerned in view of the potential purchase, rental or lease of the products concerned;

3° exhibition: a public presentation of defence-related products within the framework of a commercial event for a particular period of time, where various exhibitors present their products to visiting traders or to the public at large.

§ 2. The general licence for the case referred to in Article 14, § 2, 4° of the aforementioned Decree must only be used for temporary transfers for purposes of maintenance or repairs and for re-transfer to the Flemish Region following maintenance or repairs.

Maintenance or repairs can be accompanied by coincidental improvement of the original products, for example by using modern spare parts or by applying a more recent standard for reliability or security reasons, on the condition that this does not result in the functional possibilities of the defence-related products concerned being increased or the products being provided with new or additional functions.

§ 3. The general licence for the case referred to in Article 14, § 2, 5° of the Arms Trade Decree must only be used if the competent unit has confirmed that the licence applies to the intergovernmental cooperation programme to which the intended transfers are linked.

Art. 13. § 1. In application of Article 12, paragraph 1 of the aforementioned Decree the Minister shall also attach the terms and conditions and restrictions to the use of the general licences which they deem necessary in light of the criteria referred to in Articles 26 and 28 of the aforementioned Decree.

§ 2. In application of Article 43 of the Arms Trade Decree and Articles 46 through 49 of the present Order the use of the general licences referred to in Article 9, § 1 of the present Order can be suspended or restricted.

CHAPTER 3. - Derogations from the licence requirement for transit as referred to in Article 8, § 2/1, third sub-paragraph of the Arms Trade Decree

Art. 13/1. In addition to the derogation from the licence requirement for transit referred to in Article 8, § 2/1, third sub-paragraph of the Arms Trade Decree, the derogation in question shall also apply to the following member countries of

NATO or Participating States to the Wassenaar Arrangement: Argentina, Australia, Canada, Japan, Montenegro, New Zealand, the United States of America, South Korea and Switzerland.

The Minister may decide that the derogation shall also apply to certain other or new member countries of NATO or Participating States to the Wassenaar Arrangement, if they consider that the export policies in those member countries or Participating States and the circumstances that may have a significant impact on the verification referred to in Articles 26 and 28 of the aforementioned Decree are of the same level as the export policies and the circumstances in the member countries or Participating States referred to in the first sub-paragraph.

The Minister may lift the derogation for the member countries or Participating States referred to in the first and second sub-paragraphs, if they consider that there have been changes in circumstances in the member countries or Participating States concerned which are likely to have such a significant adverse impact on the export policies of those member countries or Participating States or on the verification referred to in Articles 26 and 28 of the aforementioned Decree that they are no longer of the same level as the export policies and circumstances in the other member countries or Participating States referred to in the first sub-paragraph.

TITLE 2. - Procedures and more detailed rules

CHAPTER 1. - Procedure for the application for and granting of licences and more detailed rules for licences, as referred to in Articles 15, 16, 22 and 23 of the Arms Trade Decree

Section 1. - Application and granting procedure

Subsection 1. - Application

Art. 14. § 1. The application for a licence referred to in Articles 15, 16, 22 and 23 of the Arms Trade Decree shall contain at least the following information:

- 1° the details of the applicant;
- 2° if applicable, the details of the representative of the applicant;
- 3° the type of application:
 - a) import, export, transit or transfer;
 - b) temporary or permanent import, export, transit or transfer;
 - c) individual, global or combined licence;
- 4° the details of the consignor(s) and the consignee(s);
- 5° the details of the end user(s), if different from the details of the consignee(s);
- 6° the country or countries of origin of the defence-related products, the other materials for military use or the law enforcement equipment;
- 7° the country or countries of dispatch;
- 8° the country or countries of destination and the country or countries of end use, if different from the country or countries of destination;
- 9° the technical details of the defence-related products, the other materials for military use or the law enforcement equipment:
 - a) a technical description of the goods;
 - b) if applicable, an initial classification of the defence-related products according to the categories of the Common Military List of the European Union;
 - c) the weight and quantity of the goods;
 - d) the value in euros and the tariff code of the goods;
- 10° the utilisation of the defence-related products, the other materials for military use or the law enforcement equipment:
 - a) a description of the use for which the goods have been designed or modified;
 - b) a description of the use of the goods as intended by the consignee(s) and by

the end user(s), if different from that of the consignee(s);

11° the signature of the persons designated as being personally responsible for the import, export, transit and transfer;

12° those persons' commitment:

a) to allocate a purpose to the respective goods in accordance with the licence which is applied for;

b) if applicable, to fulfil the obligations which the customs regulations, the Arms Act of 8 June 2006 and its implementing orders, and other applicable regulations attach to the import, export, transit or transfer concerned.

The obligation referred to in the first sub-paragraph, 9°, c) and d) shall not apply to the application for the licence referred to in Article 16 of the aforementioned Decree.

The application for a licence for export, transit or transfer to another EU Member State shall also contain the following information in addition to the information referred to in the first sub-paragraph:

1° the details of other parties involved, if applicable, such as a subsequent consignee, an intermediary, a forwarding agent, a customs agent, an exporter or a carrier;

2° a description of the proposed mode of transport and the proposed clearing house;

3° a description of those terms and conditions or restrictions in the case of goods previously transferred or imported from another country and subject to export terms and conditions or restrictions.

§ 2. Any useful information on the technical properties and possibilities of the goods and the possible utilisation thereof shall be enclosed with the application.

If applicable, a copy of the document containing the title on the basis of which the applicant is entitled, in accordance with the Arms Act of 8 June 2006 and its implementing orders, to possess or acquire the goods, as referred to in Article 31, § 1 of the Arms Trade Decree, shall be enclosed with the application.

The following documents must also be enclosed with the application for a licence for export, transit or transfer to another EU Member State:

1° a copy of the applicant's prior authorisation referred to in Article 10 of the aforementioned Decree;

2° a declaration from the end user as referred to in Article 19, § 2, and Article 24, § 2, and, where applicable, Article 19, § 3, second sub-paragraph, and Article 24, § 3, second sub-paragraph of the aforementioned Decree;

3° an international import certificate or a copy of the import licence of the country of destination, if applicable;

4° the documents showing that the applicant has satisfied the terms and conditions or restrictions in the case of goods previously transferred or imported from another country and subject to export terms and conditions or restrictions;

5° if applicable, a declaration as referred to in Article 20, § 2, 2° of the present Order;

6° a copy of the transfer or export licence of the country of destination if the country of end use is different from the country of destination and if that copy is available;

7° the details of the contract or invoice to which the transfer, export or transit relates, if these details are known.

With the application for a transit licence, if applicable, a document must also be enclosed which shows that the competent authorities of the country of origin of the goods have consented to the export, as referred to in Article 24, § 4 of the aforementioned Decree.

With the application for a licence for the export or transit of firearms other than civilian firearms, including their components and ammunition, a document shall also be enclosed which shows the consent of any countries of transit, with the exception of the EU Member States as referred to in Articles 6 and 40, § 4 of the aforementioned Decree.

Art. 14/1. § 1. The declaration from the end user referred to in Article 19, § 2 and Article 24, § 2 of the Arms Trade Decree shall contain at least the following information:

- 1° the details of the following parties concerned:
 - a) the consignor;
 - b) the consignee;
 - c) the end user, if different from the consignee;
 - d) the subsequent consignee and the intermediary where applicable;
- 2° the country of end use;
- 3° the following technical details of the defence-related products, the other materials for military use or the law enforcement equipment:
 - a) a technical description of the type and nature of the goods;
 - b) the weight and quantity of the goods;
 - b) the value of the goods;
- 4° a description of the intended use of the goods by the end user;
- 5° the location where the end use of the goods will take place, if known;
- 6° the details of the contract or invoice to which the transfer, export or transit relates, if these details are known;
- 7° the details required of the end user in application of Article 19, § 3, or Article 24, § 3 of the aforementioned Decree, where applicable.

§ 2. The declaration referred to in paragraph 1 shall contain, in addition to the information referred to in paragraph 1, all the following commitments:

- 1° the commitment to use the goods solely for the purposes described in the declaration and not to use them for any of the following activities:
 - a) activities related to chemical, biological or nuclear weapons, or missiles capable of delivering such weapons to their target;
 - b) activities related to nuclear explosive or nuclear fuel cycle activities;
 - c) activities related to other goods as referred to in Article 3, § 1, first sub-paragraph of the Arms Trade Decree;
- 2° the commitment not to use, convey or export the goods in violation of relevant restrictive UN, EU and OSCE measures or in violation of restrictions notified by the exporter to the end user;
- 3° the commitment not to convey the goods to another person for activities as referred to in 1° and 2°, and not to export the goods as such during the validity period of the licence to another country outside of the EU without subsequent notification to the Government of Flanders;
- 4° the commitment to convey the goods only as such to another person on the condition that said person accepts in writing as binding on themselves the commitments referred to in 1° through 3° and on the condition that it has been verified whether said person is known to be reliable in the fulfilment of such commitments.

If the end user will apply the goods for operational purposes, the declaration from the end user shall include, in addition to the information referred to in paragraph 1, and the commitments referred to in the first sub-paragraph, the commitment not to use the goods and not to convey them to another person for violations of:

- 1° human rights;
- 2° international humanitarian law;

- 3° the prohibition on the use of force, referred to in Article 2 of the Charter of the United Nations;
- 4° the United Nations Conventions against Terrorism and Transnational Organised Crime.

If the end user will use the goods for integration into other goods, the declaration from the end user shall include, in addition to the information referred to in paragraph 1, and the commitments referred to in the first sub-paragraph, the following two commitments:

- 1° the commitment to actually integrate the goods into their own goods;
- 2° the commitment to only convey, transfer or export their own goods concerned in accordance with the export regulations applicable in the country of end use.

If applicable, the declaration from the end user shall include, in addition to the information referred to in paragraph 1 and the commitments referred to in the first sub-paragraph, all the requirements for the end user referred to in Article 19, § 3 or Article 24, § 3 of the aforementioned Decree.

§ 3. The declaration referred to in paragraph 1 shall be signed by a person who has the authority to enter into legal commitments on behalf of the end user for acts of import, export, transit and transfer of defence-related products, other materials for military use and law enforcement equipment.

§ 4. The competent unit shall make available on its website a template for drawing up the declaration from the end user.

Subsection 2. More detailed rules for the demand of additional information or guarantees and for the imposition of terms and conditions for granting licences

Art. 15. If, after having received an application, the competent unit judges that the possibility of demanding additional information or guarantees, as referred to in Article 5, second sub-paragraph, Article 19, § 3 and Article 24, § 3 of the Arms Trade Decree must be applied, or that the issue of the licence on the grounds of Article 12, § 1 of the aforementioned Decree is made to depend on certain terms and conditions, a period amounting to a minimum of ten working days can be set within which such requirements or terms and conditions must be fulfilled.

Art. 16. In addition to the exception for transfer and export to member states of the EU and NATO, the possibility referred to in Article 19, § 3, second sub-paragraph and Article 24, § 3, second sub-paragraph of the Arms Trade Decree shall not apply to the following Participating States to the Wassenaar Arrangement: Argentina, Australia, Japan, Mexico, New Zealand, South Korea, South Africa and Switzerland.

Section 2. - More detailed rules

Subsection 1. - Content of the licence

Art. 17. § 1. The licences referred to in Articles 15, 16, 22 and 23 of the Arms Trade Decree shall contain at least the following information:

- 1° the details of the competent unit;
- 2° the last day of validity;
- 3° the details of the applicant;
- 4° if applicable, the details of the representative of the applicant;
- 5° the type of application:
 - a) import, export, transit or transfer;

- b) temporary or permanent import, export, transit or transfer;
- c) individual, global or combined licence;
- 6° the technical details of the defence-related products, the other materials for military use or the law enforcement equipment:
 - a) a technical description of the goods;
 - c) the weight or quantity of the goods;
 - d) the value in euros and the tariff code of the goods;
- 7° the terms and conditions and provisos referred to in paragraph 2.

The obligation referred to in the first sub-paragraph, 6°, b) and c) shall not apply to the application for the licence referred to in Article 16 of the aforementioned Decree.

The licences for import or transfer to the Flemish Region shall also contain the following information in addition to the information referred to in the first sub-paragraph:

- 1° the details of the consignee(s);
- 2° the country or countries of dispatch.

The licences for export or transfer to another EU Member State shall also contain the following information in addition to the information referred to in the first sub-paragraph:

- 1° the details of the consignee(s);
- 2. the country or countries of destination;
- 3° if different, the country or countries of end use;
- 4° if applicable, the country or countries of transit.

The licences for transit shall also contain the following information in addition to the information referred to in the first sub-paragraph:

- 1° the details of the consignee;
- 2° the country of dispatch;
- 3° the country of destination;
- 4° if different, the country or countries of end use.

§ 2. If applicable, the licences shall contain the terms and conditions and restrictions attached to the use thereof in application of Article 12 of the aforementioned Decree.

The licences shall also contain a proviso that states that, if applicable, the use of the licence shall be lawful only if the applicant fulfils the obligations which the customs regulations and the Arms Act of 8 June 2006 and its implementing orders attach to the respective import, export, transit or transfer.

Subsection 2. - Validity period, extension and processing

Art. 18. § 1. The licences referred to in Articles 15, 16, 22 and 23 of the Arms Trade Decree shall be valid for three years from the date on which they are granted.

In the case of transit, the validity period of the licence must not exceed the validity period of the import licence of the country of destination.

§ 2. After the validity period of the licence has expired or after the total of the allowed quantity or allowed weight of the goods has been imported, exported, forwarded or transferred, the applicant shall return the original licence to the competent unit and report on the use thereof, as referred to in Article 49 of the Arms Trade Decree and in Articles 57 through 62 of the present Order.

§ 3. If, at the time of expiry of the validity period of the licence, the allowed

quantity or allowed weight of the goods has not yet been fully imported, exported, forwarded or transferred, the validity period of the original licence can be extended by the same period for the remaining part upon submission of said licence to the competent unit.

As is the case for the original application, a request for extension shall be verified against the criteria referred to in Article 11 or in Articles 26 and 28 of the Arms Trade Decree, as the case may be.

Subsection 3. - Licences for temporary import, export or transfer

Art. 19. § 1. Licences for temporary import, export or transfer shall be granted on the condition that the goods concerned are re-exported, re-imported or re-transferred, as the case may be, within the validity period of the licence.

§ 2. Applicants shall submit to the competent unit proof of re-export, re-import or re-transfer, as the case may be, no later than two months after this period has expired.

The proof shall be provided, either by means of the document issued by the customs administration of the importing or exporting country, which shows that the imported or exported goods have been declared, or by means of another document which shows that the goods have been re-exported, re-imported or re-transferred within the set period.

Subsection 4. - More detailed rules for imposing terms and conditions of and restrictions for use

Art. 20. § 1. If the application concerns the transfer of components referred to in the Common Military List of the European Union, account shall be taken of the sensitivity of the transfer when the licence is granted or not and when the terms and conditions or restrictions, as referred to in Article 12 of the Arms Trade Decree, are considered.

A transfer shall be regarded as non-sensitive if the competent unit is of the opinion that non-essential components are concerned and that the nature of the non-essential components in relation to the possible end use of the products into which they will be integrated would not give rise to concern on the grounds of the criteria referred to in Articles 26 and 28 of the aforementioned Decree.

§ 2. The licence referred to in Articles 15 and 16 of the Arms Trade Decree shall in any event not be denied nor shall restrictions be imposed on the end use of the goods or on the export after the transfer if:

1° the competent unit is of the opinion that, on the grounds of paragraph 1, the transfer is not sensitive; and

2° the applicant presents a declaration from the consignee that the components concerned will be integrated into their own product and, unless for purposes of maintenance or repairs, cannot be transferred or exported as such.

CHAPTER 2. - More detailed rules for the notification referred to in Article 7, § 2 of the Arms Trade Decree

Art. 21. § 1. For the notification referred to in Article 7, § 2 of the Arms Trade Decree to be admissible, the competent unit must receive it no later than twenty working days before the intended transfer.

The notification shall contain at least the information referred to in Article 14, § 1, 1°, 2°, 4°, 6°, 7°, 9°, 10°, 11° and 12°, the information referred to in Article

14, § 2, first sub-paragraph and, if applicable, the information referred to in Article 14, § 2, second sub-paragraph.

§ 2. Regardless of the form of the notification, the competent unit shall provide the person concerned with an acknowledgement of receipt after it has received a complete notification.

Within ten working days of the date of such acknowledgement of receipt, the competent unit shall notify the person concerned by ordinary or registered letter, by fax or electronically, if that produces an acknowledgement of receipt from the addressee, whether or not they are required to apply for a licence for the intended transfer.

§ 3. If it is mandatory to apply for a licence, the rules referred to in Chapter 1 shall apply.

CHAPTER 3. - Procedure for obtaining the preliminary opinion and the written confirmation and more detailed rules

Section 1. - Preliminary opinion

Subsection 1. - Application and granting procedure

Art. 22. § 1. The application for a preliminary opinion shall contain at least the information referred to in Article 14, § 1, first sub-paragraph, 1°, 2°, 3°, 7°, 8°, 9°, a) and b), 10°, a) and 11°.

If that information is known at the latest at the time of issue of the preliminary opinion, the applicant shall also state in their application, or at a later time, the information referred to in Article 14, § 1, first sub-paragraph, 4°, 5°, 6°, 9°, c) and d) and 10°, b) and § 1, third sub-paragraph.

If, in the case of export, transit or transfer to another EU Member State, the specific end user is not yet known when the application is submitted and, at the latest at the time of issue of the preliminary opinion, the applicant shall in any event communicate to which of the following categories of end users their application for a preliminary opinion relates: (1) defence-related industry; (2) other industry; (3) retailer; (4) private individual; (5) international organisation; (6) armed forces; (7) law enforcement body; or (8) other public authority.

§ 2. An application for a preliminary opinion shall be verified against the criteria referred to in Article 11 or Articles 26 and 28 of the Arms Trade Decree, as applicable.

Subsection 2. - Content of the preliminary opinion

Art. 23. The preliminary opinion shall contain at least the following information:
1° the details of the competent unit;
2° the details of the applicant;
3° if applicable, the details of the representative of the applicant;
4° the information referred to in Article 22, § 1 of the present Order, if it is known at the time of issue of the preliminary opinion;
5° an evaluation of the submitted import, export, transit or transfer;
6° the communication that the preliminary opinion is purely informative in nature, does not in any way bind the Flemish Region and cannot be regarded as permission to carry out the presented import, export, transit or transfer, as referred to in Article 9, § 1, second sub-paragraph of the Arms Trade Decree.

Subsection 3. - Re-evaluation

Art. 24. Applicants can at any point in time request a re-evaluation of the preliminary opinion, if:

1. they have at their disposal elements that could not be presented in the application for the original preliminary opinion;
2. there are circumstances that can have an important effect, as the case may be, on the verification referred to in Article 11 or Articles 26 and 28 of the Arms Trade Decree.

In both cases referred to in the first sub-paragraph, 1° and 2°, it shall be the applicant's responsibility to request a re-evaluation of the preliminary opinion.

Section 2. - Written confirmation

Subsection 1. - Application and granting procedure

Art. 25. § 1. The application for a written confirmation must contain at least the following information:

- 1° the details of the applicant;
- 2° if applicable, the details of the representative of the applicant;
- 3° the consignee and the end user of the export or transit pursuant to which the written confirmation is requested;
- 4° the technical details of the goods for which the written confirmation is requested:
 - a) a technical description of the goods;
 - b) the value per piece in euros and the tariff code of the goods;
- 5° the possible utilisation of the goods:
 - a) a description of the use for which the goods have been designed or modified;
 - b) a description of the possible use of the goods, on their own or in combination with one another or with other goods, substances or organisms, to cause severe damage to persons or goods and as a means of committing violence in an armed conflict or a similar situation of violence;
- 6° the signature of the persons designated as being personally responsible for the import, export, transit and transfer.

§ 2. Any useful information on the technical properties and possibilities of the goods and the possible utilisation thereof shall be enclosed with the application.

The commitment signed by the persons designated as being personally responsible for the import, export, transit and transfer to truthfully answer the following questions must be also be enclosed with the application:

1° Have the goods for which the written confirmation is requested been designed or modified as such to make it possible to use them, on their own or in combination with one another or with other goods, substances or organisms, to cause severe damage to persons or goods and to use them as a means of committing violence in an armed conflict or a similar situation of violence?

2° Was account taken in the design or modification of the goods for which the written confirmation is requested of the fact that the goods concerned, on their own or in combination with one another or with other goods, substances or organisms, can cause severe damage to persons or goods and can be used as a means of committing violence in an armed conflict or a similar situation of violence?

Subsection 2. - Content of the written confirmation

Art. 26. If the Minister is of the opinion that the goods for which the written confirmation is requested do not actually fall within the scope of Article 8, § 2 of the Arms Trade Decree, the written confirmation shall contain at least the

following information:

- 1° the details of the competent unit;
- 2° the last day of validity;
- 3° the details of the applicant;
- 4° if applicable, the details of the representative of the applicant;
- 5° the technical details of the goods for which the written confirmation is requested:
 - a) a technical description of the goods;
 - b) the tariff code of the goods;
- 6° the confirmation that the goods do not actually fall within the scope of Article 8, § 2 of the aforementioned Decree;
- 7° the notification that, on the grounds of the aforementioned Decree, no export or transit licence is required for the export and transit as such;
- 8° a proviso that states that the written confirmation can only be lawfully presented:
 - a) for the export and transit of goods that have been explicitly included in the written confirmation;
 - b) if applicable, if the applicant fulfils the obligations that the customs regulations and the Arms Act of 8 June 2006 and its implementing orders attach to the respective export or transit.

Subsection 3. - Validity period and extension

Art. 27. A written confirmation shall be valid for three years as from the date of issue.

The validity period of a written confirmation can be extended by the same period at the time that it expires, if the original written confirmation is presented.

Subsection 4. - Denial

Art. 28. If the Minister is of the opinion that the goods for which the written confirmation is requested do in fact fall within the scope of Article 8, § 2 of the Arms Trade Decree, the applicant shall be notified thereof by ordinary or registered letter.

In the case referred to in the first sub-paragraph a licence must be requested for the export or transit pursuant to which a written confirmation was requested and the rules referred to in Articles 14 through 20 of the present Order shall apply.

CHAPTER 4. - Procedure for the application for and granting of prior authorisations and more detailed rules, and procedure for the professional probity examination

Section 1. - Application and granting procedure

Art. 29. § 1. The application for a prior authorisation must contain at least the following information:

- 1° the details of the applicant;
- 2° if applicable, the details of the representative of the applicant;
- 3° if the applicant is a legal person, the details of every director, manager and commissioner of the legal person and any special authorised representative of the legal person who is competent for import, export, transit and transfer;
- 4° a description of the applicant's relevant activities in defence-related products, other materials for military use or law enforcement equipment;
- 5° the technical details of the defence-related products, the other materials for military use or the law enforcement equipment to which the activities relate:
 - a) a technical description of the goods;

b) if applicable, an initial classification of the defence-related products according to the categories of the Common Military List of the European Union;

6° a description of the use for which the respective defence-related products, the other materials for military use or the law enforcement equipment have been designed or modified;

7° a description of the in-house programme of compliance with the transfer and export control procedure or the export management system of the applicant;

8° if the applicant is a legal person: the details and signature of the board member of the applicant who is designated as being personally responsible for import, export, transit and transfer, referred to in Article 10, § 2, third sub-paragraph of the Arms Trade Decree of 15 June 2012, and of the persons referred to in 3°, who are appointed as their deputy or deputies in the event of temporary absence or inability to act.

At least the following documents must be enclosed with the application:

1° the documents showing the relevant activities of the applicant and the technical details of the goods referred to in the first sub-paragraph;

2° if available, the documents showing the in-house programme of compliance with the transfer and export control procedure or the export management system of the applicant, referred to in the first sub-paragraph;

3° an excerpt from the applicant's criminal records or an equivalent document, which is not older than one month at the time that the application is made and, if the applicant is a legal person, of every director, manager and commissioner of the legal person and any special authorised representative of the legal person who is competent for import, export, transit and transfer;

4° if the applicant is a legal person, a copy of its articles of association.

§ 2. On the basis of an evaluation of the information and documents referred to in paragraph 1, and of the opinions referred to in Article 10, § 2, second sub-paragraph of the Arms Trade Decree, it may be that:

1° the authorisation is limited to certain activities of export, transit or transfer;

2° the authorisation is limited to certain goods or categories of goods;

3° an adjustment is required of the in-house programme of compliance with the transfer and export control procedure or the export management system of the applicant as well as the appointment of a board member who is personally responsible for import, export, transit and transfer.

Section 2. - Content of the prior authorisation

Art. 30. The prior authorisation shall contain at least the following information:

1° the details of the competent unit;

2° the details of the applicant;

3° if applicable, the details of the representative of the applicant;

4° the export, transit or transfer activities and the categories of goods for which the prior authorisation is granted;

5° the details of the persons referred to in Article 29, § 1, first sub-paragraph, 8°, if the applicant is a legal person;

6° the obligation for the applicant to inform the competent unit of any relevant change to the industrial or commercial activity in defence-related products, other materials for military use or law enforcement equipment, or to the applicant's internal organisation.

Section 3. - Triennial evaluation

Art. 31. In view of the triennial evaluation of the prior authorisation, referred to in Article 10, § 3 of the Arms Trade Decree, the holder of a prior authorisation shall provide the competent unit with an updated version of the information and documents referred to in Article 29, § 1 of the present Order every three years as from the time that the authorisation is granted.

An opinion can also be requested from the public prosecutor of the district where the applicant is established, from State Security, from the General Administration of Customs and Excise Duties of the FPS Finance and from the federal police.

§ 2. In addition to the triennial evaluation referred to in paragraph 1, the Minister can, at any point in time, instruct the competent unit to re-evaluate compliance with the terms and conditions attached to the prior authorisation and the criteria referred to in Article 10, § 2, second and third sub-paragraphs of the Arms Trade Decree.

A re-evaluation as referred to in the first sub-paragraph shall each time be carried out in case of:

- 1° relevant changes to the industrial or commercial activity in defence-related products, other materials for military use or law enforcement equipment, or to the applicant's internal organisation;
- 2° indications that the applicant no longer complies with all the relevant terms and conditions and criteria.

If the applicant no longer complies with the relevant terms and conditions and criteria, the prior authorisation can be suspended or revoked, its use can be restricted or measures can be taken that are aimed at encouraging compliance with the relevant terms and conditions and criteria, in conformity with Article 43 of the aforementioned Decree and Articles 46 through 49 of the present Order.

CHAPTER 5. - Procedure for the application for and granting of the certificate as a certified person and more detailed rules

Section 1. - Application and granting procedure

Art. 32. § 1. An application for a certificate as a certified person shall contain at least the following information:

- 1° the details of the applicant;
- 2° if applicable, the details of the representative of the applicant;
- 3° if the applicant is a legal person, the details of every director, manager and commissioner of the legal person and any special authorised representative of the legal person who is competent for import, export, transit and transfer;
- 4° the details of the applicant's various production units for which a certificate is requested;
- 5° a description of the applicant's relevant activities and experience in defence-related products referred to in Article 14, § 3, first sub-paragraph, 1° and 2° of the Arms Trade Decree, and of the purposes for which the defence-related products received are used;
- 6° the technical details of the defence-related products to which said activities relate:
 - a) a technical description of the defence-related products;
 - b) an initial classification of the defence-related products according to the categories of the Common Military List of the European Union;
- 7° a description of the use for which the respective defence-related products have been designed or modified;
- 8° a description of the in-house programme of compliance with the transfer and export control procedure or the export management system of the applicant, referred to in Article 14, § 3, first sub-paragraph, 5° of the aforementioned Decree;
- 9° the details and signature of the applicant's board member who is designated as being personally responsible for transfers and exports as referred to in Article 14, § 3, first sub-paragraph, 3° of the aforementioned Decree, and of the

persons mentioned in 3° who are appointed as their deputy or deputies in the event of temporary absence or inability to act.

At least the following documents shall be enclosed with the application:

1° the documents showing the relevant activities and experience of the applicant and the technical details of the goods referred to in the first sub-paragraph;

2° the documents showing the in-house programme of compliance with the transfer and export control procedure or the export management system of the applicant, referred to in the first sub-paragraph;

3° an excerpt from the applicant's criminal records or an equivalent document, which is not older than one month at the time that the application is made and, if the applicant is a legal person, of every director, manager and commissioner of the legal person and any special authorised representative of the legal person who is competent for this matter;

4° if the applicant is a legal person, a copy of its articles of association;

5° the declaration referred to in Article 14, § 3, first sub-paragraph, 4° of the aforementioned Decree.

An opinion can also be requested from the public prosecutor of the district where the applicant is established, from State Security, from the General Administration of Customs and Excise Duties of the FPS Finance, from the federal police and from the relevant competent authorities of the other EU Member States.

§ 2. Where appropriate, the competent unit can be of the opinion that a visit to the applicant's premises is also necessary.

In the event of such a site visit, the provisions of Article 46, § 2 of the aforementioned Decree and Article 53 of the present Order shall apply.

Art. 33. On the basis of an evaluation of the information and documents referred to in Article 14, § 3 of the Arms Trade Decree and Article 32, § 1 of the present Order, and of the opinions and, if applicable, the site visit referred to in Article 32, § 2 of the present Order, it may be that:

1° the certificate is restricted to certain categories of defence-related products;

2° the applicant is required to make a declaration in which they commit:

a) to use the defence-related products received for their own production;

b) not to re-transfer or re-export the defence-related products received as such, except for maintenance or repair purposes;

3° an adjustment is required of the in-house programme of compliance with the transfer and export control procedure or the export management system of the applicant and the elements referred to in Article 14, § 3, first sub-paragraph of the aforementioned Decree.

Section 2. - Content of the certificate as a certified person

Art. 34. The certificate shall contain at least the following information:

1° the details and signature of the competent unit;

2° the date of issue and the last day of validity;

3° the details of the applicant;

3°/1 the details of the persons referred to in Article 32, § 1, first sub-paragraph, 9°;

4° if applicable, the details of the representative of the applicant;

5° the confirmation that the applicant meets the criteria referred to in Article 14, § 3 of the Arms Trade Decree;

6° the addresses of the applicant's production units, if any, for which the certificate has been granted as well;

7° the categories of defence-related products that may be purchased on the grounds of the certificate and based on general licences published by other EU

Member States;

8° the applicant's obligation to notify the competent unit of any facts and events occurring after the certificate has been granted and that can influence the validity or content of the certificate, namely:

a) any relevant changes to the industrial activity in defence-related products or to the applicant's internal organisation;

b) any changes to the address where the information on the defence-related products received is accessible to the competent unit.

Section 3. - Validity period, extension and re-evaluation

Art. 35. § 1. A certificate as a certified person shall be valid for three years as from the date of issue.

The validity period of a certificate can be extended by the same term at the time that it expires, if the original document is presented.

In such a case, compliance with the terms and conditions attached to the certificate and with the criteria referred to in Article 14, § 3, first sub-paragraph of the Arms Trade Decree shall be evaluated.

With a view to this, the applicant shall provide the competent unit with an updated version of the information and documents referred to in Article 32 of the present Order.

An opinion can also be requested from the public prosecutor of the district where the applicant is established, from State Security, from the General Administration of Customs and Excise Duties of the FPS Finance and from the federal police.

§ 2. In addition to the triennial evaluation referred to in paragraph 1, third sub-paragraph, the Minister can, at any point in time, instruct the competent unit to re-evaluate compliance with the terms and conditions attached to the certificate and with the criteria referred to in Article 14, § 3, first sub-paragraph of the aforementioned Decree.

A re-evaluation shall always be performed in the case of:

1° relevant changes to the industrial activity in defence-related products or to the applicant's internal organisation;

2° indications that the applicant no longer complies with all the relevant terms and conditions and criteria.

If the applicant no longer complies with the relevant terms and conditions and criteria, the certificate can be suspended or revoked, its use can be restricted or measures can be taken that are aimed at encouraging compliance with the relevant terms and conditions and criteria, in application of Article 43 of the aforementioned Decree and Articles 46 through 49 of the present Order.

§ 3. In the case of re-evaluation, as referred to in paragraphs 1 and 2, the provisions of Article 32, § 1, third sub-paragraph and Article 32, § 2 of the present Order shall also apply.

Section 4. - Publication of the list of certified persons

Art. 36. A list of certified persons shall be published on the website of the Flemish public administration.

PART 3. - Import, export, transit and transfer of civilian firearms, components and ammunition

TITLE 1. - Licence requirement

Art. 37. In application of Article 30, § 2 of the Arms Trade Decree, the import, export, transit and transfer of civilian firearms, components and ammunition referred to in the list included in Annex 4 of the present Order shall be exempt from licensing.

Art. 37/1. In addition to the derogation from the licence requirement for transit referred to in Article 30, § 1, fourth sub-paragraph of the Arms Trade Decree, the derogation in question shall also apply to the following member countries of NATO or Participating States to the Wassenaar Arrangement: Argentina, Australia, Canada, Japan, Montenegro, New Zealand, the United States of America, South Korea and Switzerland.

The Minister may decide that the derogation shall also apply to certain other or new member countries of NATO or Participating States to the Wassenaar Arrangement if they consider that the export policies in those member countries or Participating States and the circumstances that may have a significant impact on the verification referred to in Articles 26 and 28 of the aforementioned Decree are of the same level as the export policies and the circumstances in the member countries or Participating States referred to in the first sub-paragraph.

The Minister may lift the derogation for the member countries and Participating States referred to in the first and second sub-paragraphs, if they consider that there have been changes in circumstances in the member countries or Participating States concerned which are likely to have such a significant adverse impact on the export policies of those member countries or Participating States or on the verification referred to in Articles 26 and 28 of the aforementioned Decree that they are no longer of the same level as the export policies and circumstances in the other member countries or Participating States referred to in the first sub-paragraph.

TITLE 2. - Procedures and more detailed rules

CHAPTER 1. - Procedure for the application for and granting of licences as referred to in Articles 34 and 38 of the Arms Trade Decree and more detailed rules

Section 1. - Application and granting procedure

Subsection 1. - Application

Art. 38. § 1. The application for a licence as referred to in Articles 34 and 38 of the Arms Trade Decree shall contain at least the following information:

- 1° the details of the applicant;
- 2° if applicable, the details of the representative of the applicant;
- 3° the type of application:
 - a) import, export, transit or transfer;
 - b) temporary or permanent import, export, transit or transfer;
- 4° the details of the consignor and of the consignee;
- 5° the details of the end user, if different from the consignee;
- 6° the country or countries of origin of the civilian firearms, components or ammunition;
- 7° the country of dispatch;
- 8° the country of destination and the country of end use, if different from the country of destination;
- 9° the technical details of the civilian firearms, components or ammunition:

- a) a description of the nature of the goods;
- b) a description of the essential properties referred to in Article 31, § 2, second sub-paragraph of the aforementioned Decree;
- c) if applicable, mention of the markings put on the firearms;
- d) if applicable, the classification of the civilian firearms according to the categories of Regulation (EU) No. 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition;
- e) the quantity of goods;
- f) the value in euros and the tariff code of the goods;
- 10° the utilisation of the civilian firearms, components or ammunition:
 - a) a description of the use of the goods as intended by the consignee and by the end user, if different from that of the consignee;
 - b) the communication on whether the goods will be used for activities of a civilian nature or of a military or paramilitary nature;
- 11° the signature of the persons designated as being personally responsible for the import, export, transit and transfer;
- 12° those persons' commitment:
 - a) to allocate a purpose to the respective goods in accordance with the licence applied for;
 - b) if applicable, to fulfil the obligations which the customs regulations, the Arms Act of 8 June 2006 and its implementing orders, and other applicable regulations attach to the import, export, transit or transfer concerned.

The following information must also be included in the application for a licence for transfer to another EU Member State or for export or transit:

- 1° the manner in which the civilian firearms, components or ammunition will be transferred, exported or forwarded;
- 2° the intended date of transfer, export or transit and the expected date of arrival of the civilian firearms, components or ammunition in the country of destination.

§ 2. At least the following documents must be enclosed with the application:

- 1° a copy of the document containing the title on the grounds of which the applicant is entitled, in accordance with the Arms Act of 8 June 2006 and its implementing orders, to possess or acquire the firearm, the component or the ammunition, as referred to in Article 31, § 1, first sub-paragraph of the Arms Trade Decree;
- 2° in the case of export, transit and transfer to another EU Member State, a document showing that the country of end use gave its prior consent for the import or transfer or showing that the licence can be granted without such prior consent, referred to in Articles 37 and 40, § 2 of the aforementioned Decree;
- 3° in the event of an application for a licence without specifying the serial numbers of the civil firearms, components or ammunition in question: proof of the applicability of one of the cases referred to in Article 31, § 2, third sub-paragraph of the aforementioned Decree.

The following documents must also be enclosed with the application for a licence for export or transit:

- 1° if the document referred to in the first sub-paragraph, 3°, does not mention the end user and end use: a declaration from the end user as referred to in Article 40, § 2, second sub-paragraph, and, if applicable, Article 40, § 3, second sub-paragraph of the aforementioned Decree;

3° if applicable, a document showing the consent from the countries of transit,

if any, is clear, with the exception of the EU Member States as referred to in Article 40, § 4 of the aforementioned Decree.

With the application for a transit licence, if applicable, a document must also be enclosed which shows that the competent authorities of the country of origin of the goods have consented to the export, as referred to in Article 40, § 5 of the aforementioned Decree.

Art. 38/1. § 1. The declaration from the end user referred to in Article 40, § 2, second sub-paragraph of the Arms Trade Decree shall contain at least the following information:

- 1° the details of the following parties concerned:
 - a) the consignor;
 - b) the consignee;
 - c) the end user, if different from the consignee;
 - d) the subsequent consignee and the intermediary where applicable;
- 2° the country of end use;
- 3° the following technical details of the civilian firearms, components or ammunition:
 - a) a description of the nature of the goods;
 - b) a description of the essential properties referred to in Article 31, § 2, second sub-paragraph of the aforementioned Decree;
 - c) an indication of the markings put on the firearms where applicable;
 - d) the quantity of goods;
 - e) the value of the goods;
- 4° a description of the intended use of the goods by the end user;
- 5° the location where the end use of the goods will take place, if known;
- 6° the details of the contract or invoice to which the transfer, export or transit relates, if these details are known.
- 7° the details required of the end user in application of Article 40, § 3 of the aforementioned Decree, if these details are known.

§ 2. The declaration from the end user shall contain, in addition to the information referred to in paragraph 1, all the following commitments:

- 1° the commitment to use the goods only for the purposes described in the declaration and not for any activity related to the goods mentioned in Article 3, § 1, first sub-paragraph of the Arms Trade Decree;
- 2° the commitment not to use, convey or export the goods in violation of relevant restrictive UN, EU and OSCE measures or in violation of restrictions notified by the exporter to the end user;
- 3° the commitment not to convey the goods to another person for activities as referred to in 1° and 2°, and not to export the goods as such during the validity period of the licence to another country outside of the EU without subsequent notification to the Government of Flanders;
- 4° the commitment to convey the goods only as such to another person on the condition that said person accepts in writing as binding on themselves the commitments referred to in 1° through 3° and on the condition that it has been verified whether said person is known to be reliable in the fulfilment of such commitments.

If the end user will apply the goods for operational purposes, the declaration from the end user shall include, in addition to the information referred to in paragraph 1, and the commitments referred to in the first sub-paragraph, the commitment not to use the goods and not to convey them to another person for violations of:

- 1° human rights;
- 2° international humanitarian law;
- 3° the prohibition on the use of force, referred to in Article 2 of the Charter of the United Nations;

- 4° the United Nations Conventions against Terrorism and Transnational Organised Crime.

If the end user will use the goods for integration into other goods, the declaration from the end user shall include, in addition to the information referred to in paragraph 1, and the commitments referred to in the first sub-paragraph, the following two commitments:

- 1° the commitment to actually integrate the goods into their own goods;
2° the commitment to only convey, transfer or export their own goods concerned in accordance with the export regulations applicable in the country of end use.

If applicable, the declaration from the end user shall include, in addition to the information referred to in paragraph 1, and the commitments referred to in the first sub-paragraph, all the commitments required of the end user in application of Article 40, § 3 of the aforementioned Decree.

§ 3. The declaration shall be signed by a person who has the authority to enter into legal commitments on behalf of the end user for acts of import, export, transit and transfer of civilian firearms, components or ammunition.

§ 4. The competent unit shall make available on its website a template for drawing up the declaration from the end user.

Subsection 2. - More detailed rules for the demand of additional information or guarantees and for the imposition of terms and conditions for granting licences

Art. 39. If, after having received an application, the competent unit judges that the possibility of demanding additional information or guarantees, as referred to in Article 40, § 3 of the Arms Trade Decree, must be applied, or that the issue of the licence on the grounds of Article 33, § 1 of the aforementioned Decree shall be made to depend on certain terms and conditions, a period amounting to a minimum of ten working days can be set within which such requirements or terms and conditions must be fulfilled.

Art. 40. In addition to the exception that is specified for transfer and export to member states of the EU and NATO, the possibility referred to in Article 40, § 3, second sub-paragraph of the Arms Trade Decree shall not apply to the following Participating States to the Wassenaar Arrangement: Argentina, Australia, Japan, Mexico, New Zealand, South Korea, South Africa and Switzerland.

Section 2. - More detailed rules

Subsection 1. - Content of the licence

Art. 41. § 1. The licences referred to in Articles 34 and 38 of the Arms Trade Decree shall contain at least the following information:

- 1° the details of the competent unit;
2° the last day of validity;
3° the details of the applicant;
4° if applicable, the details of the representative of the applicant;
5° the type of application:
a) import, export, transit or transfer;
b) temporary or permanent import, export, transit or transfer;
- 6° the technical details of the civilian firearms, components or ammunition:
a) a description of the essential properties referred to in Article 31, § 2, second

sub-paragraph of the aforementioned Decree;

- b) the quantity of goods;
- c) the value in euros and the tariff code of the goods;
- 7° the terms and conditions and provisos referred to in paragraph 2.

The licences for import in or transfer to the Flemish Region shall also contain the following information in addition to the information referred to in the first sub-paragraph:

- 1° the details of the consignor;
- 2° the country of dispatch.

The licences for export or transfer to another EU Member State shall also contain the following information in addition to the information referred to in the first sub-paragraph:

- 1° the details of the consignee;
- 2° the country of destination;
- 3° if different, the country of end use;
- 4° if applicable, the country or countries of transit;
- 5° the manner in which the civilian firearms, components or ammunition will be transferred or exported;
- 6° the intended date of transfer or export and the expected date of arrival of the civilian firearms, components or ammunition in the country of destination.

The licences for transit shall also contain the following information in addition to the information referred to in the first sub-paragraph:

- 1° the details of the consignee;
- 2° the country of dispatch;
- 3° the country of destination;
- 4° if different, the country or countries of end use;
- 5° the manner in which the civilian firearms, components or ammunition will be forwarded;
- 6° the intended date of transit and the expected date of arrival of the civilian firearms, components or ammunition in the country of destination.

§ 2. If applicable, the licences shall contain the terms and conditions and restrictions attached to the use thereof in application of Article 33 of the aforementioned Decree.

The licences shall also contain a proviso that states that, if applicable, the use of the licence shall be lawful only if the applicant fulfils the obligations that the customs regulations and the Arms Act of 8 June 2006 and its implementing orders attach to the respective import, export, transit or transfer.

Subsection 2. - Validity period, extension and processing

Art. 42. § 1. The licences referred to in Articles 34 and 38 of the Arms Trade Decree shall be valid for one year as from the date on which they are granted.

In the case of export, transit and transfer to other EU Member States, the validity period of the licence must not exceed the validity period of the licence or the permission of the country of destination for the import or transfer.

§ 2. After the validity period of the licence has expired or after the total of the allowed quantity of the goods has been imported, exported, forwarded or transferred, the applicant shall return the original licence to the competent unit and report on the use thereof, as referred to in Article 49 of the Arms Trade Decree.

§ 3. If, at the time at which the validity period of the licence expires, the allowed quantity of goods has not yet been fully imported, exported, forwarded or transferred, the validity period of the original licence can be extended by the same period for the remaining part if said original licence is submitted to the competent unit.

As is the case for the original application, a request for extension shall be verified against the criteria referred to in Articles 26 and 28 or in Article 32 of the aforementioned Decree, as the case may be.

Subsection 3. - Licences for temporary import, export or transfer

Art. 43. Licences for temporary import, export or transfer shall be granted on the condition that the respective goods are re-exported, re-imported or re-transferred, as the case may be, within the validity period of the licence.

Applicants shall submit to the competent unit proof of re-export, re-import or re-transfer, as the case may be, no later than two months after the period has expired.

The proof shall be provided, either by means of the document issued by the customs administration of the importing or exporting country, which shows that the imported or exported goods have been declared, or by means of another document which shows that the goods have been re-exported, re-imported or re-transferred within the set period.

CHAPTER 2. - More detailed rules for the notification referred to in Article 35, § 2, first sub-paragraph and Article 39, § 1, first and second sub-paragraphs of the Arms Trade Decree

Art. 44. § 1. For the purposes of admissibility, the competent unit must receive the notification referred to in Article 35, § 2, first sub-paragraph and Article 39, § 1, first and second sub-paragraphs of the Arms Trade Decree, no later than two working days before the intended transfer, import or export.

The notification must contain at least the information referred to in Article 38, § 1, first sub-paragraph, 1°, 2°, 4°, 7°, 8°, 9°, 11° and 12° of the present Order.

At least the following documents must be enclosed with the notification:

1° a copy of the respective person's European Firearms Pass or, for persons having their residential address in Belgium, a copy of the document containing the title on which grounds the respective person is entitled, in accordance with the Arms Act of 8 June 2006 and its implementing orders, to possess or acquire the firearm, component or ammunition;

2° proof that the respective person actually wants to transfer, import or export the firearms, components or ammunition for the purposes referred to in Article 35, § 2, first sub-paragraph and Article 39, § 1, first and second sub-paragraphs of the aforementioned Decree.

§ 2. As soon as the competent unit receives a complete notification, the details thereof shall be verified and the respective person shall receive a certified copy of their notification by fax or electronically, if that produces an acknowledgement of receipt from the addressee.

The competent authorities in the country of destination shall also be provided with a certified copy.

§ 3. The respective person shall present to the competent unit proof of re-export, re-import or re-transfer, as the case may be, no later than two months after the activities referred to in Article 35, § 2, first sub-paragraph and Article 39, § 1, first and second sub-paragraphs of the aforementioned Decree have been terminated.

The proof shall be provided, either by means of the document issued by the customs administration of the importing or exporting country, which shows that

the imported or exported goods have been declared, or by means of another document which shows that the goods have been re-exported, re-imported or re-transferred within the set period.

CHAPTER 3. - More detailed rules for the open licence and the notification, referred to in Article 36, § 1, first sub-paragraph of the Arms Trade Decree and the notification referred to in Article 39, § 2, first sub-paragraph of the aforementioned Decree

Art. 44/1. The application for an open licence referred to in Article 36, § 1, first sub-paragraph of the Arms Trade Decree shall contain at least the following information and documents:

- 1° the details of the applicant;
- 2° a copy of the certificate of accreditation as an arms dealer, referred to in Article 36, § 1, first sub-paragraph of the aforementioned Decree;
- 3° a copy of the articles of association of the legal person if the applicant is a legal person.

Art. 45. § 1. For the purposes of admissibility, the competent unit must receive the notification referred to in Article 36, § 1, first sub-paragraph and Article 39, § 2, second sub-paragraph of the Arms Trade Decree, no later than two working days before the intended transfer, import or export.

The notification must contain at least the information referred to in Article 38, § 1, first sub-paragraph, 1°, 2°, 4°, 8°, 9°, 11° and 12° of the present Order.

At least the following documents must be enclosed with the notification:

- 1° a copy of the open licence of the arms dealer concerned, as referred to in Article 36, § 1 of the aforementioned Decree;
- 2° a document showing the prior consent from the country of destination to the import or transfer, or showing that the import or transfer can take place without such prior consent;
- 3° in the case of permanent transfer to an arms dealer: a copy of the open licence or the certificate of accreditation as an arms dealer of the arms dealer in the country of destination;
- 4° in the case of temporary transfer, import or export: proof that the person concerned actually wishes to transfer, import or export the firearms, components or ammunition for the purposes referred to in Article 36 of the aforementioned Decree.

§ 2. As soon as the competent unit receives a complete notification, the details thereof shall be verified and the person concerned shall receive a certified copy of their notification by fax or electronically, if that produces an acknowledgement of receipt from the addressee.

The competent authorities in the country of destination shall also be provided with a certified copy.

PART 4. - Suspension, revocation and restriction of licences, authorisations, certificates, preliminary opinions and written confirmations

Art. 46. § 1. The Government of Flanders shall decide on the suspension, restriction or revocation of licences and preliminary opinions as a general measure, and on their extension or adjustment, at the proposal of the Minister and after having received the opinion of the competent unit.

The opinion of the competent unit shall cover at least the following elements:

- 1° the application of the criteria referred to in Articles 26, 28, 41 and 42 of the Arms Trade Decree;
- 2° applicable UN, EU or OSCE embargoes or other restrictive measures and any ongoing discussions thereon;
- 3° the transfer, export and transit policies of the other Regions and other EU Member States.

§ 2. If the Government of Flanders is of the opinion that a suspension, restriction or revocation of licences or preliminary opinions must be issued as a general measure, the Minister shall instruct the competent unit to inform all applicants for the licences or preliminary opinions in question or, in the case of the suspension, restriction or revocation relating to a general licence as referred to in Article 14, § 2 of the Arms Trade Decree, to inform all persons who have registered for the use of the general licence in question. This information shall be communicated by registered letter, by fax or electronically, if that produces an acknowledgement of receipt from the addressee.

The respective persons shall be notified of the following elements:

- 1° a description of the situations referred to in Article 43, § 1, first sub-paragraph, 1° through 3° of the aforementioned Decree, on which the suspension, restriction or revocation is based;
- 2° a description of the restriction of the licences, or of preliminary opinions, if applicable;
- 3° the additional measures attached to the suspension, restriction or revocation, if applicable;
- 4° the intended initial duration of the suspension or restriction and the possibility of extending it, if applicable;

The intended initial duration of the suspension or restriction must not exceed six months.

Unless the Government of Flanders decides otherwise, the suspension, restriction or revocation shall be applicable as from the date of receipt of the notification of the decision referred to in paragraph 1, first sub-paragraph.

A notification of the suspension, restriction or revocation, including the elements referred to in the second sub-paragraph, 1° through 3°, shall also be published on the website of the competent unit.

§ 3. If, on the basis of the situations referred to in Article 43, § 1, first sub-paragraph, 1° through 3° of the Arms Trade Decree, the Government of Flanders is of the opinion that an issued suspension or restriction should be extended or adjusted, or that the licences or preliminary opinions in question should be revoked, a notification of the decision of Government of Flanders to extend or adjust the suspension or restriction or to revoke the licences or preliminary opinions in question shall be published on the website of the competent unit, indicating the elements referred to in paragraph 1, 1° through 3°, and, if applicable, the duration of the extension of the suspension or restriction, which in each case must not exceed six months.

The decision not to extend an issued suspension or restriction shall also be notified on the website of the competent unit.

Art. 47. § 1. The Minister shall decide on the suspension, restriction or revocation of the licences, authorisations, certificates, preliminary opinions or written confirmations of a particular person or particular persons as an individual measure, and on their extension or adjustment, after having received advice from the competent unit.

§ 1/1. If the Minister is of the opinion that, in application of Article 43 of the Arms Trade Decree and with respect to the licences, authorisations, certificates, preliminary opinions or written confirmations of a certain person or certain persons, they must proceed to a suspension, revocation or restriction as an individual measure, they shall instruct the competent unit to communicate to the respective person(s) by means of a registered letter with acknowledgement of receipt that the suspension, revocation or restriction of the licences, authorisations, certificates, preliminary opinions or written confirmations is being considered, and to notify the respective person(s) of the following elements:

1° a description of the situation referred to in Article 43, § 1, first sub-paragraph, 1° through 3° of the aforementioned Decree, on which the suspension, revocation or restriction is based;

2° if applicable, a description of the restriction of the licences, authorisations, certificates, preliminary opinions or written confirmations;

3° if applicable, the additional measures attached to the suspension, revocation or restriction;

4° the right of the respective persons to communicate their means of defence and to request a hearing, possibly assisted by counsel of their choosing.

As a preliminary measure, the intended suspension, revocation or restriction shall have effect as from the date of receipt of the registered letter referred to in the first sub-paragraph until a decision is finally made regarding the intended suspension, revocation or restriction.

§ 2. The respective persons shall have a term of ten working days as from the date of receipt of the registered letter referred to in paragraph 1/1, first sub-paragraph, to communicate their means of defence to the competent unit by registered letter and to request a hearing.

If applicable, the competent unit shall hear the respective persons, who may be assisted by counsel of their choosing, and shall report to the Minister on this matter.

Within twenty working days after the date of the registered letter referred to in paragraph 1/1, first sub-paragraph, or, if applicable, within ten working days after the date of receipt of the registered letter referred to in the first sub-paragraph of this paragraph, or after the date of the hearing referred to in the second sub-paragraph of this paragraph, the Minister shall confirm the intended suspension, revocation or restriction if there are grounds for doing so and, if applicable, give a description of the restriction of the licences, authorisations, certificates, preliminary opinions or written confirmations and, if applicable, specify additional measures attached to the suspension, revocation or restriction. They shall instruct the competent unit to immediately notify the respective person of this by registered letter.

If the Minister deems further examination of the means of defence presented necessary, the term can be extended to a maximum of thirty working days or, if justification is provided for the necessity, to ninety working days.

§ 3. Unless the Minister decides otherwise, a suspension or restriction shall always be indefinite.

Art. 48. § 1. The temporary suspension by simple notification in exceptional circumstances, as referred to in Article 43, § 2 of the Arms Trade Decree, shall be issued by the competent unit.

The competent unit shall notify the respective person(s) by registered letter, by fax or electronically, if that produces an acknowledgement of receipt from the addressee, of the temporary suspension and of the elements referred to in Article

46, § 1, first sub-paragraph, 1° and 3°, or Article 47, § 1/1, first sub-paragraph, 1° and 3° of the present Order and shall set the term for the temporary suspension.

§ 2. Unless provided otherwise, the temporary suspension shall have effect as from the date of receipt of the notification referred to in paragraph 1, second sub-paragraph.

The competent unit shall notify the Minister immediately of the temporary suspension to enable them to apply the procedure referred to in Article 46 or 47 of the present Order, if there are sufficient grounds for doing so.

Art. 49. If the suspension, revocation or restriction is issued as an individual measure, the respective persons can request the Minister to fully or partially lift or limit the suspension or restriction issued or, in the case of a revocation, request a new decision, if they have at their disposal means of defence that could not be presented during the procedure for issuing the suspension, revocation or restriction.

To do so, they shall notify the competent unit of their new means of defence by registered letter and they can also request a new hearing.

If applicable, the competent unit shall hear the respective persons, who may be assisted by counsel of their choosing, and shall report to the Minister on this matter.

Within ten working days after the date of receipt of the registered letter referred to in the second sub-paragraph, or, if applicable, after the date of the hearing referred to in the third sub-paragraph, the Minister shall decide on the revocation or limitation of the suspension or restriction, or, in the case of a revocation, on a possible new licence, authorisation, certificate, preliminary opinion or written confirmation, and shall instruct the competent unit to notify the respective persons immediately of their decision by registered letter.

If the Minister deems further examination of the presented means necessary, the term can be extended to a maximum of thirty working days or, if justification is provided for the necessity, to ninety working days.

Part 4/1. General restrictive measures

Art. 49/1. § 1. The Government of Flanders shall decide on the application of the measure referred to in Article 43/1, § 1 of the Arms Trade Decree, and on its extension or adjustment thereof, at the proposal of the Minister and after having received the opinion of the competent unit.

The opinion of the competent unit shall cover at least the following elements with respect to the country or end user in question:

- 1° the application of the criteria referred to in Articles 26, 28, 41 and 42 of the aforementioned Decree;
- 2° applicable UN, EU or OSCE embargoes or other restrictive measures and any ongoing discussions thereon;
- 3° the transfer, export and transit policies of the other Regions and other EU Member States.

§ 2. If the Government of Flanders considers that the measure referred to in paragraph 1 should be applied, the Minister shall instruct the competent unit to publish on its website a notification containing all the following elements:

- 1° a description of the circumstances referred to in 43/1, § 1, first sub-paragraph of the Arms Trade Decree on which the measure is based;

- 2° a description of the measure taken;
- 3° the intended initial duration of the measure taken and the possibility of extending it, as referred to in Article 43/1, § 2 of the aforementioned Decree.

The measure shall have effect as from the date of its publication on the website of the competent unit.

The competent unit shall also deliver the notification to all applicants whose applications for licences or preliminary opinions for the country or end user in question are pending at that time. It shall do so by registered letter, by fax or electronically, if that produces an acknowledgement of receipt from the addressee.

§ 3. If the Government of Flanders is of the opinion that the measure taken should be extended or adjusted in application of Article 43/1, § 2 of the Arms Trade Decree, a notification of the Government of Flanders' decision to extend or adjust the measure shall be published on the website of the competent unit, stating the elements referred to in paragraph 2, first sub-paragraph, 1° through 3°.

The decision not to extend a measure taken shall also be notified on the website of the competent unit.

PART 5. - Temporary exclusion of applicants

Art. 50. § 1. The Minister shall decide on the temporary exclusion of a specific person, as referred to in Article 44 of the Arms Trade Decree, and on the extension or adjustment thereof after having received the opinion of the competent unit.

§ 1/1. If the Minister is of the opinion that they must apply Article 44 of the Arms Trade Decree with respect to a particular person, they shall instruct the competent unit to notify the respective person by registered letter with acknowledgement of receipt that a measure of temporary exclusion is being considered, and to notify the respective person of the following elements:

1° the indications they have that the respective person performs or has performed one or more of the acts referred to in Article 44, § 1, 1° through 6° of the aforementioned Decree;

2° the import, export, transit or transfer activities and the categories of goods referred to in the aforementioned Decree, to which the temporary exclusion is intended to apply;

3° the intended initial duration of the temporary exclusion;

4° the right of the respective person to communicate their means of defence and to request a hearing, possibly assisted by counsel of their choosing.

The respective person shall then have a term of ten working days as from the date of receipt of the registered letter referred to in the first sub-paragraph, to communicate their means of defence to the competent unit by registered letter and to request a hearing.

If applicable, the competent unit shall give the respective person, who may be assisted by counsel of their choosing, a hearing and report to the Minister on this matter.

Within twenty working days after the date of the registered letter referred to in the first sub-paragraph or, if applicable, within ten working days after the date of receipt of the registered letter referred to in the second sub-paragraph, or after the date of the hearing referred to in the third sub-paragraph, and if there are

grounds for doing so, the Minister shall take the intended exclusion measure, specify the import, export, transit or transfer activities and the categories of goods to which the exclusion measure applies and the term thereof, and shall instruct the competent unit to immediately notify the person concerned of this by registered letter.

If the Minister deems further examination of the means of defence presented necessary, the term can be extended to a maximum of thirty working days or, if justification is provided for the necessity, to ninety working days.

As a preliminary measure, the exclusion measure shall have effect as from the date of receipt of the registered letter referred to in the first sub-paragraph until a final decision is reached on the intended temporary exclusion.

§ 2. If an exclusion measure is extended pursuant to the opening of a criminal preliminary investigation or criminal proceedings in application of Article 44, § 3 of the aforementioned Decree, the competent unit shall merely notify the person concerned of this by registered letter with acknowledgement of receipt.

If the Minister is of the opinion that an exclusion measure of less than six months must be extended because the same indications that led to the exclusion measure still apply, but that the respective wrongful acts have not yet led to the opening of any criminal preliminary investigation or criminal proceedings, the exclusion measure can only be extended to a maximum of six months on the grounds of the procedure referred to in paragraph 1/1.

If the respective person is notified by registered letter that an extension of the exclusion measure is being considered, this exclusion measure shall remain in force as a preliminary measure as from the date on which it is received until a final decision is reached on the intended extension.

Art. 51. Unless the exclusion measure was extended because a criminal preliminary investigation was or criminal proceedings were opened, a person against whom a temporary exclusion measure was taken can request the Minister at any point in time to lift or limit such measure if they have at their disposal means of defence that could not be presented during the procedure for taking the exclusion measure.

To do so, they must notify the competent unit of their new means of defence by registered letter and can also request a new hearing.

If applicable, the competent unit shall give the respective person, who may be assisted by counsel of their choosing, a hearing and report to the Minister on this matter.

Within ten working days after the date of receipt of the registered letter referred to in the second sub-paragraph or after the date of the hearing referred to in the third sub-paragraph, the Minister shall decide on the lifting or limitation of the temporary exclusion and instruct the competent unit to notify the respective person immediately of their decision by registered letter.

If the Minister deems further examination of the presented means necessary, the term can be extended to a maximum of thirty working days or, if justification is provided for the necessity, to ninety working days.

PART 6. - Right to a hearing in case of denial

Art. 52. If an application for a licence, authorisation, certificate or written confirmation is denied, the competent unit shall notify the applicant accordingly by registered letter with acknowledgement of receipt and inform them of the

following elements:

- 1° the reasons why the application was denied;
- 2° the applicant's right to communicate their means of defence and to request a hearing, possibly assisted by counsel of their choosing;
- 3° the applicant's right to lodge an appeal against the denial decision with the Council of State within sixty days from the notification.

The applicant shall then have a term of ten working days as from the date of receipt of the registered letter referred to in the first sub-paragraph to communicate their means of defence to the competent unit by registered letter and to request a hearing.

If applicable, the competent unit shall hear the applicant, who may be assisted by counsel of their choosing, and report to the Minister on this matter.

Within ten working days after the date of receipt of the registered letter referred to in the second sub-paragraph or after the date of the hearing referred to in the third sub-paragraph, the Minister shall make a decision on whether or not they will review their denial decision and instruct the competent unit to notify the applicant immediately of their decision by registered letter.

If the Minister deems further examination of the means of defence presented necessary, the term can be extended to a maximum of thirty working days or, if justification is provided for the necessity, to ninety working days.

The notification shall make mention of the applicant's right to lodge an appeal against the decision with the Council of State within sixty days after it has been notified.

PART 7. - Supervisory and criminal provisions

TITLE 1. - Designation of the supervisory personnel

Art. 53. § 1. The Secretary-General of the Flanders Department of Foreign Affairs shall designate the personnel referred to in Article 46, § 1 of the Arms Trade Decree, who are authorised to supervise compliance with the aforementioned Decree and its implementing orders.

The type and content of the identification cards of the designated persons shall be in conformity with the provisions of the Government of Flanders Order of 10 July 2008 on the identification cards of the personnel of the Government of Flanders services entrusted with inspection or control responsibilities.

§ 2. The Secretary-General of the Flanders Department of Foreign Affairs shall also grant the status of judicial police officer to one or more supervisors who have the required qualifications and characteristics.

TITLE 2. - Procedure for imposing administrative sanctions and more detailed rules for the implementation thereof

Art. 54. The administrative sanctions referred to in Article 48 of the Arms Trade Decree shall be imposed on behalf of the Government of Flanders by the Secretary-General of the Flanders Department of Foreign Affairs in accordance with the procedure referred to in Article 55.

The Secretary-General of the Flanders Department of Foreign Affairs can delegate such authority to one or more members of staff in their department.

Art. 55. § 1. If the Secretary-General is of the opinion that they must impose an administrative sanction on a particular person, they shall notify the respective

person by registered letter with acknowledgement of receipt that an administrative sanction is being considered and shall inform the respective person of the following elements:

1° the official report of violation or, as the case may be, the establishment report drawn up against that person;

2° in the case of a crime or attempted crime as referred to in Article 47, § 1 of the Arms Trade Decree: the fact that the competent public prosecutor did not initiate criminal proceedings within two months after the violation of the aforementioned Decree or the present Order was established in said official report;

3° the intended administrative sanction;

4° the right of the respective person to communicate their means of defence and to request a hearing, possibly assisted by counsel of their choosing.

The respective person shall then have a term of ten working days from the date of receipt of the registered letter referred to in the first sub-paragraph to communicate their means of defence and mitigating circumstances to the Secretary-General by registered letter and to request a hearing.

The respective person, who may be assisted by counsel of their choosing, shall be heard, if this is applicable.

§ 2. Within twenty working days after the date of the registered letter referred to in paragraph 1, first sub-paragraph, or, if applicable, within ten working days after the date of receipt of the registered letter referred to in paragraph 1, second sub-paragraph, or after the date of the hearing referred to in paragraph 1, third sub-paragraph, the Secretary-General shall impose the intended administrative sanction if there are grounds for doing so and notify the respective person of this immediately by registered letter.

If a prohibition is imposed on activities, the decision shall make mention of the import, export, transit or transfer activities and the categories of goods to which the prohibition applies and of the term thereof.

If an administrative fine is imposed, the decision shall mention the amount and the manner and period in which it must be paid.

If a suspended prohibition on activities or a suspended administrative fine is imposed, the decision shall mention the duration of the probationary period.

Art. 56. § 1. The personnel of the Flemish Tax Service shall be entrusted with the recovery of the undisputed and payable administrative fines and any collection charges from the respective persons.

The personnel referred to in the first sub-paragraph shall be authorised to serve an enforcement order.

This order shall be signed and declared enforceable by the personnel referred to in the first sub-paragraph and shall be served by bailiff's writ.

§ 2. The personnel referred to in paragraph 1, first sub-paragraph, shall be authorised to grant payment deferment to the debtors of undisputed and payable administrative fines and to first charge partial payment on the capital sum, if the debtors are able to prove exceptional circumstances.

The personnel referred to in paragraph 1, first sub-paragraph, can grant full or partial remission of the debt in the form of interest if the debtor is obviously of limited means.

In the cases in which the debtor's situation justifies this in good faith, the Government of Flanders can conclude settlements with said debtor.

PART 8. - Reports by applicants

TITLE 1. - Reports on the use of general, global and individual licences for transfers within the European Union

Art. 57. Reports to the competent unit on the use of general, global and individual licences for transfers within the European Union referred to in Articles 14, 15, 16 and 34 of the Arms Trade Decree shall be made by means of an electronic form that is delivered to the competent unit by electronic means.

The competent unit shall make the electronic form that must be used for the reports available to any person who registers to use a general licence.

The electronic forms for reporting on the use of the other licences referred to in the first sub-paragraph shall be made available on the website of the Flemish public administration.

Art. 58. § 1. The electronic form for reporting on the use of general, global and individual licences referred to in Articles 14, 15 and 16 of the Arms Trade Decree shall be drawn up per licence and shall be based on the summaries referred to in Article 49, § 2 of the aforementioned Decree.

The summaries shall contain at least one document per transfer made in which the elements referred to in Article 49, § 2, second sub-paragraph of the aforementioned Decree shall each time be listed and for which a reference number shall be provided per transfer.

§ 2. The electronic form for reporting on the use of general licences shall contain at least the following information:

- 1° the details of the person concerned;
- 2° if applicable, the details of the representative of the person concerned;
- 3° the number of the respective general licence;
- 4° the reporting period;
- 5° the number of transfers made, the total value in euros and the quantity of the defence-related products transferred, broken down according to the Member States of destination, the categories of the various consignees within the respective Member States, the various consignees within the respective Member States, and the specific categories of the respective defence-related products;
- 6° the reference numbers of the documents referred to in paragraph 1, second sub-paragraph;
- 7° the end users of the transfers made, broken down according to the various consignees.

§ 3. The electronic form for reporting on the use of the respective global and individual licences shall contain at least the following information:

- 1° the details of the person concerned;
- 2° if applicable, the details of the representative of the person concerned;
- 3° the number of the respective licence;
- 4° the dates on which the transfers were made;
- 5° the value in euros and the quantity of the licensed defence-related products per transfer made, and, in the case of global licences, broken down according to the Member States of destination, the various consignees within the respective Member States, and, if these differ, the various end users;
- 6° the reference numbers of the documents referred to in paragraph 1, second sub-paragraph.

Art. 59. § 1. The electronic form for reporting on the use of individual licences referred to in Article 34 of the Arms Trade Decree shall be drawn up per licence and be based on the summaries referred to in Article 49, § 3 of the aforementioned Decree.

The summaries shall contain for each transfer made on the basis of the licence at least one document in which the elements referred to in Article 49, § 3 of the aforementioned Decree shall each time be listed and for which a reference number shall be provided for each transfer.

§ 2. The electronic form referred to in paragraph 1 shall contain at least the following information:

- 1° the details of the person concerned;
- 2° if applicable, the details of the representative of the person concerned;
- 3° the number of the respective licence;
- 4° the dates on which the transfers were made;
- 5° the value in euros and the quantity of the licensed civilian firearms, components or ammunition, for each transfer;
- 6° the reference numbers of the documents referred to in paragraph 1, second sub-paragraph.

Art. 60. § 1. A copy of the summaries referred to in Article 49, paragraphs 2 and 3 of the Arms Trade Decree shall always be provided to the competent unit together with the electronic form.

The respective person shall keep the authentic summaries for seven years and present them to the competent unit if requested to do so.

§ 2. The reports on the use of the general licences shall be made every six months, for the periods from January through June and from July through December respectively. For this purpose, the electronic forms referred to in Article 58, § 2 shall be delivered to the competent unit no later than two months after the respective period.

The reports on the use of global licences shall be made annually for the period from January through December. For this purpose, the electronic forms referred to in Article 58, § 3 shall be provided to the competent unit no later than two months after the respective period.

The reports on the use of individual licences shall be made after expiry of the validity period of the licence or after the total of the allowed quantity or allowed weight of goods has been transferred. For this purpose, the electronic forms referred to in Articles 58, § 3 and 59, § 2 respectively, shall be provided to the competent unit no later than two months after the respective point in time.

If the licence was not used during the period in question, this shall also be notified to the competent unit no later than two months after the period in question.

TITLE 2. - Reports on the use of individual and combined licences for import, export and transit

Art. 61. § 1. The reports to the competent unit on the use of the individual and combined licences for import, export and transit referred to in Articles 22, 23 and 38 of the Arms Trade Decree shall be made on the basis of the depreciation of the respective licences by the respective competent services of the General Administration of Customs and Excise Duties of the FPS Finance.

§ 2. The summaries referred to in Article 49, § 3 of the aforementioned Decree shall contain at least one document per dispatch carried out on the basis of the licence, in which the elements referred to in Article 49, § 3 are each time listed and for which a reference number is provided per dispatch.

The competent unit shall be provided with a copy of these summaries, together with the licence no later than two months after expiry of the validity period of the licence or after the total of the allowed quantity or allowed weight of the goods has been imported, exported or forwarded.

The respective person shall keep the authentic summaries for seven years and present them to the competent unit if requested to do so.

If the licence was not used during the period in question, this shall also be notified to the competent unit no later than two months after the period in question.

Art. 62. § 1. By way of derogation from Article 61, additional reports based on an electronic form and relating to the use of the licences referred to in Article 61, § 1 must be made in the following cases:

1° the depreciations referred to in Article 61, § 1 do not contain all the information as referred to in Article 59, § 2;

2° in the present case, the competent unit is of the opinion that electronic reports are essential to adequately supervise the use of the licences granted to a specific applicant.

The Minister can also stipulate that, in order to fully digitise the reporting procedure, the reports on the use of individual and combined licences for import, export and transit must always be made using an electronic form.

In the case referred to in the first sub-paragraph, 2°, this obligation shall constitute a condition attached to the licence in application of Article 12, § 1, 5° of the Arms Trade Decree.

§ 2. The electronic form referred to in paragraph 1 shall be drawn up per licence and based on the summaries referred to in Article 49, § 3 of the Arms Trade Decree.

The electronic form shall contain at least the following information:

1° the details of the person concerned;

2° if applicable, the details of the representative of the person concerned;

3° the number of the respective licence;

4° the dates on which the dispatches were made;

5° the value in euros and the quantity of the licensed defence-related products, the licensed law enforcement equipment or other materials for military use, or of the licensed civilian firearms, components or ammunition, per dispatch;

6° the reference numbers of the documents referred to in paragraph 61, § 2 of the present Order.

The competent unit shall make the electronic forms on which the reports must be based available on the website of the Flemish public administration.

§ 3. The electronic form referred to in paragraph 1 shall be delivered to the competent unit, together with the licence, no later than two months after expiry of the validity period of the licence or after the total of the allowed quantity or allowed weight of the goods has been imported, exported or forwarded.

If the licence was not used during the period in question, this shall also be notified to the competent unit no later than two months after the period in question.

PART 9. - Final provisions

Art. 63. The present Order shall come into effect on 30 June 2012.

Art. 64. The Flemish Minister competent for the import, export and transit of weapons shall be in charge of implementing the present Order.