

NOTIFICATION

Addendum

The following communication by Netherlands is being circulated in accordance with Article 10.6.

The following information should be attached to notification G/TBT/Notif.97.341.

ANNEX

The 1997 Weapons and Ammunition Regulation

The purpose of the 1997 Weapons and Ammunition Regulation, based on the Weapons and Ammunition Act (which Act, just as this Regulation, will be re-enacted after notification) is, just as is that of, and in conjunction with, the Act aforesaid, for reasons of (public) safety, to control legal possession of weapons and to combat illegal possession of weapons. To that effect the Act contains the prohibition to carry, have in possession, transport, cause to be brought in, carried out, or be in transit, or to manufacture, repair or modify weapons and ammunition. In addition, the Act provides for a number of possibilities for exception under which these prohibitions are not applicable to certain categories of weapons and ammunition under certain conditions. These are exemptions, dispensations, licences, recognitions, and permits. The grounds for exemption are contained in the 1997 Weapons and Ammunition Regulation here under consideration. In this Regulation it is laid down, inter alia, under what conditions the prohibitions contained in the Act are not applicable to special investigating officers, and to sections of the public services, and it provides for the granting of exemptions for antique weapons or weapons which are inoperative. In addition, the Regulation contains the restrictions under which exemptions, recognitions, dispensations, permissions and permits must be granted, as well as further conditions. The Regulation imposes conditions, for example, on the holders of a recognition for the use of weapons in their trade or profession, in respect of age, moral conduct, professional competency, and security of the business premises and equipment, and it contains rules in respect of the completion of application and qualification documents and the keeping of a register and the furnishing of information. The Regulation also provides for the compulsory taking of measures to prevent injury and damage through the use of certain types of weapons.

In implementation of and supplementary to the Weapons and Ammunition Act, the present Regulation therefore contains further conditions imposed on holders and/or users of, and dealers in, weapons and ammunition. With these detailed requirements it is envisaged that products which by

their nature are a danger (to life), such as weapons and ammunition, may only under very stringent conditions be manufactured, used and sold. Immediate enactment and coming into effect is only possible where urgent problems mentioned in paragraph 10 of Article 2 of the Agreement on Technical Barriers to Trade exist. Only where urgent problems of safety, health, environmental protection or national security arise or threaten to arise Members may omit the steps enumerated in paragraph 9. The circumstances at present obtaining justify a plea of immediate enactment. Especially for citizens uncertainty exists regarding the applicability of the present Weapons and Ammunition Regulation, after the decision of the EC Court of Justice in case C-194/94 (ECR 1996, p. I-2201) in which the Court considered the legal consequences of the not-notifying of technical requirements. It's not clear to what extent the national provisions for manufacturing, possession and use of weapons and ammunition can be applied, and therefore to what extent the government effectively can take action against people who act in conflict with the provisions regarding weapons and ammunition. The risk attaching to the existence of this uncertainty are enormous, having regard to the concomitant dangers in connection with public health and safety. Therefore it is absolutely essential that the 1997 Weapons and Ammunition Regulation is enacted and becomes operative immediately.