

dated 10 October 1997 (as at 1 January 2012)

*The Federal Constitution of the Swiss Confederation,
based on Article 64 of the Federal Constitution^{1,2}
after viewing the Federal Council Dispatch dated 16 April 1997³,
now passes the following resolution:*

Art. 1 Armaments companies

¹The Confederation may, where this is not a matter for the Cantons, operate armaments companies, set up joint stock companies under private law or take a stake in such companies, for the purpose of ensuring the equipment of the army.

²The Federal Council is authorised to set up joint stock companies under private law in the name of the Confederation and to acquire and sell participations in such companies. It shall decide on the details.

Art. 2 Activities

The armaments companies shall comply with commercial principles and fulfil orders from the Swiss Federal Department of Defence, Civil Protection and Sport (DDPS)⁴ as well as from third parties.

Art. 3 Holding company

¹Participations of the Confederation in joint stock companies are held by a holding company in the form of a joint stock company under private law.

^{1bis}The Federal Council defines the strategic objectives of the holding company for four years at a time.⁵

AS 1998 1202

¹ [BS 1 3]. The provision specified today corresponds to Art. 122 (1) of the Federal Constitution dated 18 April 1999 (SR 101).

² Version in accordance with Section I of the Federal Act dated 6 October 2000, in force since 1 July 2001 (AS 2001 1582; BB1 2000 2259).

³ BB1 1997 III 769

⁴ Designation in accordance with unpublished FCD dated 19 December 1997. This change is effected in the entire decree.

⁵ Added by Section I 5 of the Federal Act dated 17 December 2010 governing the involvement of the Federal Assembly in controlling autonomous units, in force since 1 January 2012 (AS 2011 5859; BB1 2010 3377 3413)

¹ter The Board of Directors of the holding company shall ensure that the strategic objectives of the Federal Council are implemented by the armaments companies. It shall report annually to the Federal Council on the achievement of its objectives, and provide the necessary information to enable the achievement of these objectives to be verified.⁶

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³Any assignment of the Confederation's capital or voting majority to third parties requires the approval of the Federal Assembly.

Art. 4 Representation on the Board of Directors

¹The Confederation is represented on the Board of Directors of the holding company in accordance with its interests.

²The holding company is represented on the Boards of Directors of the armaments companies in accordance with its interests.

Art. 5 Transfer of existing operations

¹The existing armaments operations of the Defence Procurement Agency shall be transferred to joint stock companies under private law.

²The assets and liabilities as well as the contractual rights and responsibilities of the existing armaments operations will be transferred to the joint stock companies in accordance with recognised measurement principles.

³The Federal Council shall decide on the details.

Art. 5a⁸ Recapitalisation

¹When transferring the existing armaments operations to joint stock companies, the Confederation shall ensure that they have sufficient equity capital.

²The Federal Council shall determine the way in which this is carried out as well as the timing and extent of the required recapitalisation. The charges resulting for the Confederation are posted under assets on the Confederation's balance sheet and amortised on the profit and loss account over several years.

⁶ Added by Section I 5 of the Federal Act dated 17 December 2010 governing the involvement of the Federal Assembly in controlling autonomous units, in force since 1 January 2012 (AS 2011 5859; BB1 2010 3377 3413).

⁷ Rescinded by Section I 5 of the Federal Act dated 17 December 2010 governing the involvement of the Federal Assembly in controlling autonomous units, with effect since 1 January 2012 (AS 2011 5859; BB1 2010 3377 3413).

⁸ Added by Section I of the Federal Act dated 6 October 2000, in force since 1 July 2001 (AS 2001 1582; BB1 2000 2259).

Art. 5b⁹ Retrospective increase in actuarial reserves

¹If the actuarial reserves of the armaments companies prescribed by law increase due to a dossier clear-out in the Swiss federal pension fund, the Confederation shall assume responsibility for the additional cover. The DDPS shall give a guarantee to this effect with the authorisation of the Federal Council. Any change in the insured pool and data fields is deemed to be a dossier clear-out

²If the actuarial reserves are increased in accordance with paragraph 1, the Confederation shall ensure that the armaments companies have sufficient equity capital. The accounting standards applicable when the dossier clear-out is completed shall apply. The Federal Council shall determine the way in which this is carried out as well as the timing and extent of the required recapitalisation.

³The charges resulting for the Confederation from paragraphs 1 and 2 are posted under assets on the Confederation's balance sheet and amortised on the profit and loss account over several years.

Art. 6 Employment relationships

¹The public sector employment contracts of the staff of the existing armament operations of the Defence Procurement Agency will be converted to employment contracts subject to private law with effect from the date on which the companies are transferred to joint stock companies.

²The Federal Council will issue transitional provisions after hearing the staff associations; these shall apply until the end of the current term of office at the latest.

Art. 7 Change of previous law

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Art. 8 Referendum and entry into force

¹This law is subject to an optional referendum.

²The Federal Council determines when it enters into force.

Date of entry into force: 1 May 1998¹¹

⁹ Added by Clause I of the Federal Act dated 6 October 2000, in force since 1 July 2001 (AS 2001 1582; BB1 2000 2259).

¹⁰ The changes can be consulted under AS 1998 1202.

¹¹ FCD dated 25 March 1998

