

The Italian Assaying System and Co-ordination at the European Level

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Introduction

First of all, as Vice President of Confedorafi, I thank World Gold Council for organizing the Vicenza Symposium and for giving Confedorafi the opportunity to illustrate its point of view regarding such an important subject as hallmarking and precious metals fineness control systems. Confedorafi is a national organisation and represents the whole Italian world of precious metals industry from raw materials importation up to retail sale, including gold uses, jewellery and silverware production and watch-making.

Obviously, the use of alloys made from precious and base metals for jewellery production can give unscrupulous operators the possibility to defraud the customer. The high intrinsic value of precious metals makes this unlawful action more attractive, because a fineness reduction of a few thousandths can give an appreciable additional profit. In addition, the difficulty in verifying the correspondence between the alleged and the real fineness of a jewellery item with a simple visual inspection makes defrauding easier.

Consequently, since very ancient times, a considerable effort has been made to find a way to guarantee the fineness of precious metals. It has been demanded of the producers of precious objects to inscribe on their products the real content of gold, silver or platinum together with their own identification mark to make them responsible for the alleged fineness. As far as we know, this usage dates back to more than 5000 years ago, in ancient Egypt: at the rise of the first dynasty, the Pharaoh Menes guaranteed the fineness of small gold ingots by stamping his own seal on them. In more recent times, after the unification of the

Italian kingdom, the first Italian law on this matter has been promulgated in May, 2, 1872, but the system now in force in Italy has been created by the law promulgated in February, 1934 and by the related regulations for implementation.

These regulations oblige producers and importers to stamp their own identifying mark on the precious metal items, but hallmarking by the Assay Office remained optional, i.e. it was done only when required by the concerned party. The producer or importer mark was manufactured by the State mint and was granted to everybody conforming to the requirements and accomplishing the procedure required by the regulations. In other words, it was a State Mark, that was given as a fiduciary grant to the producer or to the importer. It consisted of a progressive number and of the abbreviation of the province where the company had its head office, both inscribed in an elongated hexagon. Such an alphanumeric combination created an unequivocal correlation between the mark and the company and made the identification of the company easier than the traditional trade mark, still used in many countries.

The Italian System

Since the beginning of the 60s, the growth of silverware and goldsmiths' jewellery production in Italy and the progress of technology showed that a revision of the Italian regulations of the precious metals industry and trade was required. Therefore, the whole matter was thoroughly discussed in the precious metals industry organisations and between the above organisations and the related government authorities. As a result, on January 30, 1968 the no. 46 act was issued, with the related

regulations for implementation. These regulations are still in force in Italy, even if on May 21, 1999 the Cabinet has approved a decree with the force of law, that replaces the above said act no. 46 of 1968.

In connection with the above subject, I would like to stress that the present Italian laws follow, largely, the general regulations of the 1934 act and give the responsibility for the correspondence between the alleged fineness and the real fineness directly to the manufacturer, who is the only subject that effectively knows the composition of the alloy used. So the State grants the identification mark to the manufacturer, as a fiduciary grant. This type of regulation eliminates the requirement of having the products analysed and hallmarked by specific State offices. Anyway, the Assay Offices have the task of keeping the precious metals market under an effective supervision. The above regulations and the fiscal regulations that, only for gold, exempted the companies from the obligation to prepay the VAT on the metal, enabled the Italian goldsmiths' ware and silverware producing companies to develop their full potential in the best way. This circumstance, along with the technical and creative skills of the Italian producers, brought Italy to the world leadership in the production of jewellery, goldsmiths' ware, and silverware.

At present, more than 500 tons of fine gold, about 1400 tons of silver and nearly 35 tons of platinum are worked every year in Italy. This corresponds to 20% of the total world amount and to 75% of the EC (European Community) amount. More than 70% of the Italian production is exported – including export to other EC countries – and this corresponds to a value of 8,000

billion Italian liras. These data explain why the precious metals industry organisations give so much attention to the situation in the European Community: the EC market represents the largest outlet for the Italian goldsmiths' ware and silverware.

The European market and Harmonisation

On January 1, 1999 the Euro currency has been started, and the Schengen agreements allow us to move freely inside the EC. However, in spite of this, that unified EC market which, according to the plans of the European Commission, was expected to be realized by January 1, 1992, is still a mirage for the precious metals industry. Due to the differences among the national laws on this subject, technical barriers still exist, hindering the free circulation of goods. Still today, for want of a harmonization in the EC, Italian jewellery items cannot be freely introduced in the market of France, Holland, United Kingdom, Spain, etc., even if produced in compliance with Italian regulations.

This situation could also prejudice the possibility to eliminate the different barriers that hinder free trade of precious metal products with the countries outside the EC. Another technical barrier, interfering with free circulation of goods, is due to the different fineness levels accepted in the EC member countries. It is sufficient to say that at least 14 different fineness levels are recognized in the 15 EC countries for gold only! It can be easily understood that this situation does not facilitate free trade and can create confusion among the consumers. Last but not least, some regulations (e.g. in Holland) permit negative tolerances on the fineness of jewellery items, while other regulations permit negative tolerances only for some special types of items (e.g. filigree work or objects with many soldered joints) or don't permit negative tolerances (e.g. in the U.K.).

Moreover, different analysis methods are used in different countries – the touchstone or the so-called destructive methods – that give quite different levels of accuracy. Because of these considerations, an

| | A Quality Assurance | B Conformity Declaration | C Control by a third party |
|---------------------------------|--|--|---|
| Producer or operator | EN 29,000 Quality System | Declaration by the operator | |
| Stamping | – Mark of the responsible – Fineness mark | – Mark of the responsible – Fineness mark | – Mark of the responsible |
| Certified external organization | System control | Product control | – Product or batch control – Fineness mark |
| | Market | Market | Market |
| In the factory | State control on the market and on the certified organizations | | |

Figure 1(a) - E.C. Directive on Precious Metals: sketch of the procedures

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|--|
| Gold: 375‰ – 585‰ – 750‰ – 916‰ |
| Silver: – 800‰ – 950‰ |
| Platinum: 850‰ – 900‰ – 950‰ |
| Palladium: 500‰ – 950‰ |
| <ul style="list-style-type: none"> • Standardized mark perimeter • Fineness given as parts per thousand • No negative tolerances • Labelling/information to the customer |

Figure 1(b) - E.C. Directive on Precious Metals: standardized fineness levels

comparison with the certification given by the producer and/or by the person responsible for the introduction of the product in the market.

However, when reading the legal proceedings of the hearings, it can be seen that, on this occasion, there has not been any real debate and nearly all presented positions were favourable to hallmarking: e.g. the Italian State was absent and did not feel the necessity of sending a lawyer!

EC directive should be issued, to make possible the realization of a free internal market also in this particular field.

The proposal of the Commission, Figures 1a and 1b, has been submitted to a specific "Workgroup". Immediately, a preconceived opposition arose from some hallmarking countries – particularly from France, Holland, Portugal and United Kingdom – to the introduction of the second procedure for conformity evaluation, because it was believed less effective for the protection of the consumer. Unfortunately, up to today, this problem has prevented the drafting of a directive that could be accepted by everybody, in spite of many attempts to find a compromise solution. In the meantime, there has been a decision by the European Court of Justice on this specific subject: the Houtwipper case. This decision appears to favour a presumptive (a priori) control system by an outside organisation in

Let me now highlight some points related to the presumptive systems: there are no statistical studies demonstrating the effectiveness of the presumptive systems in a scientific way. As an example, I point out that, in a recent plenary meeting of the CEN Tc 283 (March, 1999), the expert of the London Assay Office, when confronted with a draft proposal for a technical standard on statistical sampling similar to the requirements of the Commission, declared that he was in doubt about the possibility of implementing this standard in his laboratory, because it was too burdensome.

- 1) The same standard could be accepted – and therefore considered as a kind of product certification – only in the case of a “verification through inspection and testing of each product item” and not in the case of a “statistical verification”. In a meeting of the Expert Group that took place in Brussels on March 15, 1996, it was pointed out that the sampling system presently used in the so called “hallmarking countries” is not sufficient to guarantee the “protection of the consumer” (how could the homogeneity of a batch be guaranteed? How has the statistical sampling plan been designed?).
- 2) If the “verification through inspection and testing of each product item” should be adopted, it would be necessary to use non-destructive analytical methods (otherwise the whole production would be destroyed!) like, for example, the touchstone that, unfortunately, gives a maximum error too high to be accepted (10 thousandths). If we disregard the reservations, put forward by the countries that do not accept negative tolerances on fineness, we should take into account that such a margin of error is not very significant with regard to consumer protection but is more important for the correctness of commercial transactions, which is the second and no less important aim of the Directive.
- 3) As far as Italy is concerned, there are more than 10,000 companies producing jewellery, goldsmiths’ ware and silverware. Generally,

these companies are small – an average of four workers for each company – and scattered over the whole Italian territory, so it is evident that the “verification by a third party” would not be practicable on the whole production, because of the huge number of items to be tested (about several hundred million items), with marked seasonal peaks, and because of the large number of Assay Offices required. Moreover, the problems connected with the public order should be taken into account, considering the high value of the goods that every day would be stored in the Assay Offices and the required safety measures. Also, the problem of transporting the precious metal goods from the factory to the Assay Office and back to the factory, with the related insurance cost, should be considered.

- 4) In spite of the aforementioned Dutch judgement (‘Houtwipper’), free circulation has not been achieved even between the “hallmarking countries”. Quite recently, a complaint was made by Spain, Figure 2, against United Kingdom, Ireland, Portugal and France because of the control to which the products of Spain are submitted in these countries.

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INFORMACIÓN

**ESPAÑA DENUNCIA EN BRUSELAS A
PORTUGAL, REINO UNIDO, FRANCIA,
HOLANDA E IRLANDA**

La Asociación Española de Joyeros, Plateros y Relojeros, an nombre de todo el sector, ha presentade una queja ante la Comisión de BRuselas contra Portugal, Reino Unido, Francia, Holanda e Irlanda por no aceptar la marca de garantía del Estado Español en los objetos con metales preciosos destinados al mercado europeo.

Figure 2 - Press release from the Spanish Asscoiation of Jewellery Producers, Silversmiths and Watchmakers

- 5) In nearly all “hallmarking countries” there is practically no surveillance on the market in order to control the presence of untested products or counterfeit marks (the product is not kept under control in the retail stage).
- 6) Because of the above considerations, the “hallmarking” system cannot be considered as a barrier to import in Europe from “risky” third Countries.
- 7) The cost of presumptive control, due to the Assay Office (e.g. about 33 pence in U.K. or 2.7 French francs in France) and the indirect costs related to locking up of goods, various risks, damage sometimes caused by hallmarking, delay in the delivery to the customer, results in indirect costs (a kind of duty) that make the product less competitive.
- 8) There are other fields (e.g. toys, medical products etc.) where the protection of the final consumer should be stronger, because health is involved. In these fields no control system has been provided (with the support of many countries, like U.K., France, etc.) that could oblige the producer to take all its products to a specialized laboratory. In this case the responsibility of the producer has always been emphasized.

Concluding comments

Summing up, I have tried to demonstrate, Figure 3, that, from the scientific point of view, the “hallmarking” system is only a palliative, because of its insufficient efficiency and applicability, even if its historical and psychological importance should be recognized.

It is not able to protect the consumer and does not guarantee the commercial transactions. Therefore it represents an unjustified additional cost for the consumer and for the factories.

The above considerations should give matter for reflection, not to the producers (e.g. from U.K.) who already share the “free trade” position and support the original form of the Directive, but rather to the governments of some EC countries (Holland, France, Ireland, United Kingdom, Austria ...) and to the managers of the Assay Offices,

Hallmarking System? No, thanks!

- No scientific validation
- Not suitable for great product quantity and seasonal production peaks
- There is no free product circulation among hallmarking countries
- Direct costs: control
- Indirect costs: (delays, insurance, etc.)
- Hallmarking has not been adopted for other products with higher risk for customer safety

Figure 3 - Summary of the problems related to hallmarking

What type of approach? Regulations and Market

1. Responsibility by the producer through stamping of the identification mark.
2. Market supervision by a State Authority.
3. Additional certifications are not obligatory, but optional, to give the customer additional guarantee on the basis of company quality systems or product certification.

Figure 4 - Summary of the proposed approach

because their uncompromising position will have unfavourable and dangerous consequences on the competitiveness and also on the mere survival of the precious metals industry. Unfortunately, even today, the managers of the U.K. Assay Offices insist on confirming the effectiveness of their method to protect the consumer and stress the possibility of a compulsory implementation of their method in all EC countries. I had a confirmation of this position during a meeting at the Basel Fair.

As a conclusion, for want of an EC harmonization, we keep the following position, that also comes out from the new formulation we are giving to the updated Italian law on “fineness and marks”, Figure 4:

1. Responsibility of the producer through stamping of the identification mark.
2. Supervision on production and trading by State Authorities.
3. Additional certifications on a voluntary but not obligatory basis, to give additional guarantee to the consumer through quality system for the factory or the product.

We, the producers, cannot presently accept the presupposition coming out from the position of the “hallmarking countries”, that, maybe, could have been true in the past century, i.e. that by definition, the goldsmith is not able to do his work

correctly and to guarantee the fineness of his product or, if he is able to do it, he wants to deceive his customer. Therefore, the regulations are welcome, but they should be dictated by the market and not by an obsolete “state planning” approach, where the State sees everything and provides for everything.