



***Report about the AECAC
activity in 2010***

March 2011





AECAC activities 2010

1. The last AECAC **GENERAL ASSEMBLY** was held in Nuremberg on the **12th of March 2010**. Attached as **Annex I**, minutes of the General Assembly.
2. **Fulfilment of tax obligations** before the Belgian authorities. We should thank the Belgian association which representative, **Mr. Nico Demeyere** (Belgian Lawyer), has prepared and fulfilled all tax declarations before the Belgian authorities without any charge.

It is necessary to remind once again the inputs system: the partners do not pay fees but make **voluntary contributions** depending on the Association's needs. Such payments are not obligatory, nor regular, but agreed yearly.

3. WEB PAGE

Thanks to the support of the Belgian association, AECAC has created a web page which will be shortly hanged in www.aecac.com

4. GAMO SPONSORSHIP

We have received a **1.500 €** sponsorship from **GAMO** (Air guns. www.gamo.es). According to it during the next 2 years, GAMO will be advertised as sponsor in our web page.

5. EUROPEAN FIRE GUNS DIRECTIVE

As the Directive is one of the most important legislations regulating our activity we are permanently taking care of this issue. AECAC's President, Mr. Gollety had a meeting with the Commissions responsible in October 2010 to do a follow up of all the open questions of the Directive and other European legislations. Following points were treated:

- Presentation of the Commission's report on firearms replicas. Enclosed as **Annex II**.
- Exchange of views on transposition on national laws of directive 2008/51/EC
- State of the play as regards proceedings on de-activation of firearms
- Presentation of last developments of Directive "explosives" 93/15/EEC, Directive 2008/43/EC and EU Action Plan on enhancement of security in issues of explosives.
- Presentation and last developments of directive (2009/43/EC) simplifying the intra-Community transfers of defence related products.

Concerning **REPLICAS**: Article 12 of the **new fire arms directive 2008/51/EC** stated that the Commission shall submit the mentioned report (Annex II) to the European Parliament and the Council presenting the conclusions of a study on the issue of the placing on the market of replica firearms, in order to determine **whether the inclusion of such products within the scope of such Directive is possible and desirable**.



AECAC participated actively in such action by presenting a position with its postulates and taking part in previous meetings organized by the Commission on the subject.

All this process ended with the emission by the Commission of the mentioned report ([Annex II](#)).

Briefly the report states that Directive 91/477/EEC only applies to products that are firearms or have the appearance of a firearm and can be converted to expel a shot, bullet or projectile by the action of a combustible propellant. It does not cover replica firearms. There are great differences in EU countries' definitions of replicas; objects defined as such vary in nature, complexity and level of danger. They range from objects that merely resemble a firearm to exact copies of one. At the same time, there are several other products that resemble firearms, but that are not usually classified as replicas. These include imitations of firearms used in leisure or hobby activities (airsoft, paintball), pellet guns, stun guns and distress/signal guns.

According to the report, EU countries might be divided into three categories concerning REPLICAS:

- countries where legislation does not cover the concept of replica firearms and where there are no public order problems due to the use of replicas;
- countries where legislation covers the concept of replica firearms, but where there are no significant public order problems due to the use of replicas;
- countries where legislation covers the concept of replica firearms and where there are concerns regarding the conversion of replicas and their distribution on the market.

Security concerns, when expressed, are connected to the illicit conversion of alarm guns into real firearms or to the occasional utilisation of realistic imitations of firearms to commit an offence. However, Regulation (EC) No 764/2008 on national technical rules and Directive 2001/95/EC on product safety can already apply to replicas.

The conclusion of the Commission's report is that, inclusion of replicas into the scope of application of Directive 91/477/EEC appears to be neither possible nor advisable.

The other open issues of the Directive are:

- **CATEGORIES:** By **July 2012**, the Commission should issue a report to the EU Parliament and the EU Council on the possible advantages and disadvantages of a reduction to two categories of firearms (prohibited or authorised) with a view to the better functioning of the internal market by means of possible simplification.
- **DEACTIVATION:** Annex I part III of the Directive, states for the purposes of deactivation, "all essential parts of the firearm have been rendered permanently inoperable and incapable of removal". The same Annex provides that the Commission shall issue **common guidelines** on deactivation standards.



- **GENERAL SITUATION OF THE APPLICATION:** By July 2015, the Commission should issue a report to the EU Parliament on the situation regarding the application of the Directive. This report might cause a further amendment of the Directive, so we should be very attentive on it.

AECAC is one of the recognised stakeholders concerning the Directive. In this role we are very attentive to avoid problems or more restrictions during those processes.

6. EUROPEAN FIREARMS EXPERTS

AECAC is keeping contact with Mr. Thijs van ZANTEN and Mr. Alex KORTE. Both members of the European police organisation **European Firearms Experts (EFE)**.

This organisation was created by the Dutch Government during its presidency of the EU. It is a working group of all the European (national) police bodies or police departments responsible of the gun control. The organisation and secretary of EFE is led by the Dutch police. The group has 2 presidents: one designated always by the Dutch government and the other by the country holding the European presidency at the time. The group meets twice a year. The country holding the presidency of the EU at the time organizes the meeting.

Till now their job has been focusing on coordination and information between the different national polices.

Currently their main target is to create a European system enabling all European police departments to have easy and quick information on legal guns, which will allow them to focus on the control and fight against illegal ones. Enclosed as **Annex III**, EFE executive summary explaining their project.

Their official proposal on this will be presented in the following months. We are preparing a working meeting with them.

7. COMMISSION'S PROPOSAL OF FIRE GUN IMPORT AND EXPORT REGULATION

This has been our main activity during the last years. In 2010, AECAC's activity has been mostly focused in this project.

Since the beginning of the process, through the initiative in 2007 of the **Directorate General (DG) for Justice, Freedom and Security** of the European Commission, led now by **the Swedish Commissioner Mrs. Cecilia MALMSTRÖM** (Swedish Liberal Party), to implement article 10 of the UN Protocol into European Legislation (For more information on the UN Protocol see AECAC Activity report of 2009), AECAC opposed frontally to the project, addressed several memorandums and communications to the Commission (See Activity reports 2008 and 2009) and had several meetings concerning to it.

Since March 2010, following actions were taken:



We meet several times with the **EMP Mme. Veronique MATHIEU**, who has been supporting our position from the start of this process.

In May 2010, we had a meeting with the **EU Commissioner Mme. Cecile MALSTRÖM**. In that meeting it was clear that we were not going to be able to stop the initiative, as Mrs. Malström was completely supportive to it. She confirmed that the approval process was going to start in few weeks.

Being clear that we could not stop the process, we changed our strategy to try to influence during its development and try to control the result of the final text approved by the Council and the Parliament.

The Commission's proposal will need to be **jointly adopted by the Parliament and the Council** according to the ordinary **codecision procedure**.

Two European Parliament Committees are currently involved in the approval process: the **International Trade Committee (INTA)**, being the reporter the Italian **EMP Salvatore Iacolino** is responsible to prepare the main report, while the **Civil Liberties, Justice and Home Affairs Committee (LIBE)**, being the reporter the French **EMP Veronique MATHIEU**, is preparing an opinion.

During the last months AECAC has been very actively working in this matter, not only through many contacts with Mme. Mathieu, but also through the **European Sport Shooting Forum (ESSF)**. We had 3 working meetings of the ESSF and several conference calls to reach a **Common Position** of all sectors (hunters, shooters, producers and traders). As **Annex IV** is attached ESSF Common position.

This Common position has been the main document we have used in our negotiations. It has been explained to both reporters (Mathieu and Iacolino), and sent to all representatives of the Member States in the EU Council.

The coordinated action caused that the ESSF Common Position has been the basic discussion document of all involved decision taking authorities.

The biggest problem currently is article 5 of the Commissions proposal stating that all transit countries have to confirm that they have no objection to the transit of the firearms through their territory. Thanks to our coordinated actions several MEP have accepted that such formality could be considered just by giving written notice to the transit countries, even if they do not answer to it. Such solution seem to be generally accepted by all parties till last week, when a small group of countries, led by the UK opposed to it in the EU Council. We still do not know the final result of this process.

8. REGULATION ON AVIATION SECURITY

On the 4th of March 2010 the European Commission adopted the Regulation 185/2010 which established detailed measures for the application of the common basic standards on aviation security. This norm, which came into force on the 29th of April of 2010, substituted the previous ones, also the Regulation 820/2008 which has the same area of application.

One of the changes implemented by the Regulation 185/2010 was the inclusion of **ammunition in the list of prohibited articles** in hold baggage (appendix 5-B in combination with point 5.4.1.).



The following paragraph is a transcription of the text of the mentioned Article and of the Appendix 5-B:

PROHIBITED ARTICLES

5.4.1 Passengers shall not be permitted to carry in their hold baggage the articles listed in Attachment 5-B.

APPENDIX 5-B

HOLD BAGGAGE

LIST OF PROHIBITED ARTICLES

Passengers are not permitted to carry the following articles in their hold baggage:

explosives and incendiary substances and devices – explosives and incendiary substances and devices capable of being used to cause serious injury or to pose a threat to the safety of aircraft, including:

– ***ammunition ...***

However, the Commission has specifically provided the possibility to insert an exception to this prohibition “on condition that the responsible authority applies national rules which allow the carriage of the article and that the applicable safety rules are complied with”. Article 5.4.2. establishes:

5.4.2. An exemption to point 5.4.1 may be granted on condition that:

(a) the appropriate authority has national rules permitting carriage of the article; and

(b) the applicable safety rules are complied with.

Our association postulated that the carriage in the cargo hold of an aeroplane of small quantities of ammunition does not constitute any risk, particularly when such a carriage requires a number of formalities and rigorous controls and the previous entitlement to the possession of the ammunition.

The **European Sport Shooting Forum** played a crucial role, contacting the European Commission (Enclosed as **Annex V**, is attached the answer given on the 29th of March by the European Commission to the letter sent by the whereby it was asked for clarification in this regard), and coordinating the joint action of all European associations.

AECAC collaborated to circulate the information to national authorities.

As a result of all this coordinated actions most European countries have applied the exception.

9. EUROPEAN PARLIAMENT SUSTAINABLE HUNTING INTERGROUPE

Thanks to our collaboration with **FACE (Federation of Associations for Hunting and Conservation of the E.U.)** AECAC has had the opportunity to participate in the European Parliament Hunting Intergroup.

European Parliament Intergroups gather MEPs from different Political Groups and stakeholders, sharing a common interest in a particular subject. The “Sustainable Hunting” Intergroup, created in 1985, is one of the oldest and most active in the EP. For the 2010 - 2014 term of the EP, the



Intergroup has the support of some 150 MEPs. The Intergroup bears now the official name "**Sustainable Hunting, Biodiversity, Countryside Activities & Forest**", which reflects better its conservation goals, and the clear interaction between sustainable management of territories and the enhancement of wildlife and biodiversity, while promoting a thriving countryside.

FACE hosts the Secretariat of this Intergroup and has organized and leaded very efficiently this tool.

Objectives

- PROMOTE the role of hunting and other forms of sustainable use of wild species contributing to biodiversity enhancement and rural development
- DISCUSS current issues related to wildlife management & rural development on the agenda of the European Parliament (EP)
- SECURE the interests of 7 million hunters, as well as land-managers & other countryside stakeholders, thereby contributing to the strengthening of the democratic legitimacy of the EP.
- INITIATE helpful discussions in the EP on national/regional issues relating to biodiversity & the countryside, and enable a fruitful exchange of experience
- REAFFIRM the importance of hunting as an activity with significant socio-economic impact in the EU (total turnover 8 billion/annum & 120,000 full-time jobs)
- ENSURE access to reliable databases on wildlife management and conservation & countryside activities.

Activities

The Intergroup deals with issues for which the EP is competent and which relate to hunting, wildlife management, angling, forestry, agriculture, biodiversity and nature conservation, taking into account public and wildlife health and welfare aspects. Also addressed on a regular basis are cross cutting issues which have an impact on socio economic activities in rural areas.

The key stakeholders who will be implementing these new policies are hunters and landowners who collaborate to manage in excess of 65 % of rural areas for conservation. These actors, landowners in particular, are therefore also the main providers of public environmental services.

Meetings take place during Plenary Sessions of the EP in Strasbourg. The Intergroup may, by consensus, decide to adopt a position, statement, declaration, resolution or recommendation or to take any other initiative that seems appropriate.

Organisation

The Intergroup is composed of MEPs promoting wildlife conservation, sustainable hunting & fishing, sustainable management of the countryside and cultural heritage.

The diversity of the Intergroup membership demonstrates the importance of these topics for a large range of Member States, political parties and citizens.

Bureau



A Bureau composed of one President and a number of Vice-Presidents meets regularly on the President's request in order to prepare the annual programme, deal with urgent issues and appoint the chair of the next meeting.

President : Véronique MATHIEU (EPP-ED, FR)

General Secretary: Markus PIEPER (EPP, DE)

Vice-Presidents: Robert STURDY (ECR, UK), Sergio BERLATO (EPP, IT), Luis Manuel CAPOULAS SANTOS (S&D, PT), William The Earl of DARTMOUTH (EFD, UK), Lena EK (ALDE, SE), Ioan ENCIU (S&D, RO), Béla GLATTFELDER (EPP, HU), Elisabeth KÖSTINGER (EPP, AT)

10. ESSF (European Sport Shooting Forum)

AECAC has participated actively in several ESSF meetings this year:

- **Meeting Nuremberg March 2010**
- **Meeting Brussels of June 2010**
- **Meeting Brussels of December 2010**

The ESSF allows all sectors at European level to coordinate themselves in different issues. This year main activity was related to the Commissions initiative to implement article 10 of the UN Protocol. The ESSF has coordinated very efficiently the Common Position and the lobbying strategy of all sectors.

As [Annex VI](#) executive summary of the meeting held in Brussels in December.

The ESSF is a “think tank” of the hunting and shooting sector. Its approach to all issues is very technical.

Next meeting will be held in Nuremberg on the Saturday 12th of March 2011.

11. WORLD FORUM OF THE FUTURE OF SPORT SHOOTING ACTIVITIES (WFSA)

AECAC is voting member of the WFSA, we take part in some of the WFSA meetings and have contribute yearly with **3.000 €**.

The WFSA is a highly efficient organization, recognized by the UN, and its actions are of great importance as many of the issues start globally.

Anyhow AECAC's participation in this NGO is rather symbolic as most of the issues treated are not strictly European.

The current issues in which WFSA is involved are the following:

- **Global Arms Trade Treaty**
- **UN Programme of Action (POA) on SALW**



- **United Nations Firearms Protocol.**
- **International Small Arms Control Standards (ISACS)**
- **Transit Task Force (TTF).**
- **UN Register of Conventional Arms**

For more information on the WFSa actions see www.wfsa.net

12. ACCOUNTS AND BUDGET

Attached as **Annex VII** accounts for 2010.

The proposed budget for 2011 is the following:

CONTRIBUTIONS

France	3.500 €
Germany	3.500 €
Italy	2.200 €
Spain	2.200 €
Sweden	1.300 €
The Netherlands	1.300 €
Austria	1.300 €
Belgium	1.300 €
Finland	750 €
Greece	750 €
Ireland	750 €
Austria (IWÖ)	300 €
Denmark	250 €
Cyprus	250 €
TOTAL.....	19.650 €

COSTS

Office material	250 €
Journeys	2.000 €
Post	150 €
Contribution WFSa	3.000 €
Contribution FACE	4.000 €
Bank costs	100 €
Fees	8.500 €
TOTAL	18.000 €

Brussels, March 2011



Minutes of the 18th Ordinary General Assembly

At Messezentrum, Nürnberg
Friday, 12th March 2010

Members present:	Mr. Evert van Rhee	The Netherlands
	Mr. Hans Hoffman	The Netherlands
	Mr. Yves GOLLETY	France
	Mr. Agustín ALBERDI	Spain
	Mr. Víctor FABREGAT	Spain
	Mr. Jürgen R. TRIEBEL	Germany
	Mr. Helmut KREMSER	Germany
	Mr. Lorenzo ADINOLFI	Italy
	Mr. Nico DEMEYERE	Belgium
	Mr. Jan Van Dem BROECK	Belgium
	Mr. George KIRGIAS	Greece
	Mr. Michahr KIRGIAS	Greece
	Mr. Hietala MIKKO	Finland
	Mr. Martin KRUSCHITZ	Austria
	Dr. Hermann GERIG	Austria (IWÖ)
	Dr. Franz CSASZAR	Austria (IWÖ)

1. Presidents Welcome

The President Mr. Yves GOLLETY opened the Assembly by welcoming all members present.

A mention was done to thank the Belgium association representative Mr. Demeyere as he has prepared all the tax declarations of the AECAC free of charge.

The President explained that this year has been made a lot of work concerning specially the UN PROTOCOL issue. A very close collaboration was done between the President and the Secretary General.

It was also very positive the fact that some new members joined the AECAC: Austria, Finland, Malta and Cyprus.

2. Apologies

The Danish and the Swedish associations apologized for not attending the assembly.

There were no other apologies for absence.

3. Minutes

The minutes of the 17th Ordinary General Assembly held in Nuremberg on March 2008 were unanimously approved.



4. Review of the year 2009

The Secretary-General Mr. Fabregat distributed a document providing the detail of the AECAC activity during the last year.

Most important issue during this period has been and still is the EU Commissions initiative to approve a new European Law (Regulation) on export and import of fire guns.

It was explained to all members that this assistance could be important to battle against this initiative. It is necessary to inform to all national authorities and organizations that this initiative has started. For some reason the promoters are not giving much information about the work to anyone (national authorities included), and we

Also during this year several contacts have been made with several associations from other European countries with the target to include in AECAC all 25 EU countries.

5. Accounts

Accounts of the last exercise were distributed to all members and unanimously approved.

6. Budget for next year and fixing of annual quotes.

The budget for 2008 was approved as follows:

<u>COSTS</u>	
Office material	250 €
Journeys	2.000 €
Post	150 €
Contribution WFSA	3.000 €
Contribution FACE	4.000 €
Bank costs	100 €
Fees	8.500 €
TOTAL	18.000 €

After a little discussion the contributions for 2009 were offered by the members and unanimously approved:

<u>CONTRIBUTIONS</u>	
France	3.300 €
Germany	3.300 €
Italy	2.100 €
Spain	2.100 €
Sweden	1.075 €
The Netherlands	1.075 €
Austria	1.300 €
Belgium	1.075 €
Finland	700 €



Greece	700 €
Ireland	700 €
Austria (IWÖ)	300 €
Denmark	250 €
Malta	250 €
Cyprus	250 €
TOTAL	18.575 €

7. Date and place of next meeting

Next General Assembly will take place once again on the first Friday of the next Nuremberg IWA Fair.

8. Others

All members were kindly asked to contact other national gun retailers and dealers associations to try to enlarge AECAC.

Those are the EU Countries which are still not represented in AECAC:

Bulgaria, Check Republic, Estonia, Hungary, Latonia, Lithuania, Luxemburg, Poland, Portugal, Romania, Slovenia, Slovakia and UK

Nuremberg, March 12th, 2010



EUROPEAN COMMISSION

Brussels, 27.7.2010
COM(2010)404 final

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

The placing on the market of replica firearms

This report is drafted by virtue of Article 17 of Council Directive 91/477/EEC on the control of the acquisition and possession of weapons, as amended by Directive 2008/51/EC of the European Parliament and of the Council of 21 May 2008.

Directive 2008/51/EC amending Directive 91/477/EEC and the matter of replica firearms

- 1.1. The issue of replica firearms which arose during the legislative work leading to the adoption of Directive 2008/51/EC is largely due to the integration of security concerns in a Directive which was initially merely a Directive intended to simplify, with the requisite security guarantees, the circulation of firearms owned by civilians in the internal market.
- 1.2. However, during the discussion of the amended Directive in the European Parliament, a number of policy experts who had been invited by MEPs explained the potentially criminal use of, for example, alarm guns (or guns designed for firing blanks), when converted into real firearms by delinquents.

As a direct consequence of this concern, the definition of firearm in the amended Directive, extracted almost word-for-word from the "Firearms Protocol"¹, includes objects "*capable of being converted to expel a shot, bullet or projectile by the action of a combustible propellant if it has the appearance of a firearm, and as a result of its construction or the material from which it is made, it can be so converted.*"

- 1.3. The Directive therefore does not apply to other products which have the appearance of a firearm, such as replica firearms, for which no definitions are contained in the Directive.

¹ 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 - http://www.unodc.org/pdf/crime/a_res_55/255e.pdf.



Replica firearms: different meanings from one Member State to another

- 2.1. The "Firearms Protocol" does not offer any truly operative criteria for this report in its definition of a "firearm": in Article 3, the definition of firearm includes in the assimilation to a firearm only objects which can be "*readily converted*" for that purpose.
- 2.2. The term "replicas" covers objects which differ considerably from one Member State to another and vary greatly in their nature, complexity and level of danger; several objects can thus more or less be considered as replica firearms. In fact, the term "replica firearm" can apparently be used to describe objects ranging from those which simply resemble a firearm to those which are entirely identical to one.
- 2.3. Other terms can also have the same meaning as the term "replica": reproductions, imitations, copies. It therefore seems necessary to take an inventory of objects that common sense would lump together in the same category, to a greater or lesser degree, as replicas.
- 2.4. Some legislation uses the term "replica" for weapons with a strictly identical design, the same appearance and characteristics as the original weapon. We know that experienced craftsmen in different parts of the world can copy and, so to speak, "clone" a weapon from the original model. It is clear that if such weapons are not manufactured with a trade patent and in compliance with all the national and European regulations, their manufacture, possession and all the more so their use is completely illegal.
- 2.5. Other replicas are also types of "clones" of real weapons. However, unlike previous cases, they are said to be "inert" or sometimes "decorative" or "dummy" weapons. The frame can be made of metal or plastic, and they may be comparable in weight or much lighter but, in any case, these objects are entirely unsuitable for shooting or loading ammunition. They are appreciated mainly as collectors' items.
- 2.6. Some guns (mainly handguns), which are real firearms, become denatured products under a special and specific business licence. For instance, the manufacturer of a real gun may sell his licence to another manufacturer, who will make a true and legal copy of the model in question but just as a pellet gun and/or a gun intended simply to fire blanks or an alarm.
- 2.7. Indeed, alarm guns in general can often be a rather realistic imitation of firearms (without necessarily being a copy of any precise model). According to the Permanent International Commission for Portable Firearms Testing² (CIP), all portable guns not designed to shoot solid projectiles are considered to be alarm guns. An alarm gun can therefore shoot blanks, gas and teargas cartridges.

Other products resemble firearms without being commonly classified as replicas

- 3.1. For instance, more or less realistic imitations of firearms are used for relatively new leisure or hobby activities, such as "*airsoft*"; this is a leisure activity which takes the form of a game generally involving two opposing teams of players equipped with imitation guns (generally made of plastic) which shoot 6mm or 8mm plastic pellets propelled by gas or compressed air. The propulsion power ranges in general from 2 to 7 joules.

² The CIP is an international organisation involving 13 countries, 11 of which belong to the European Union.



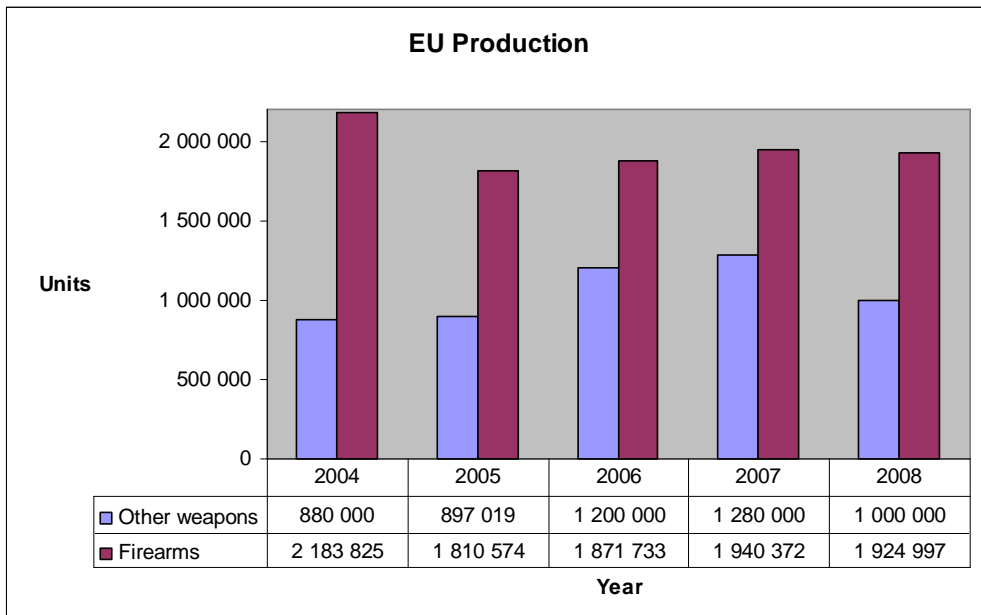
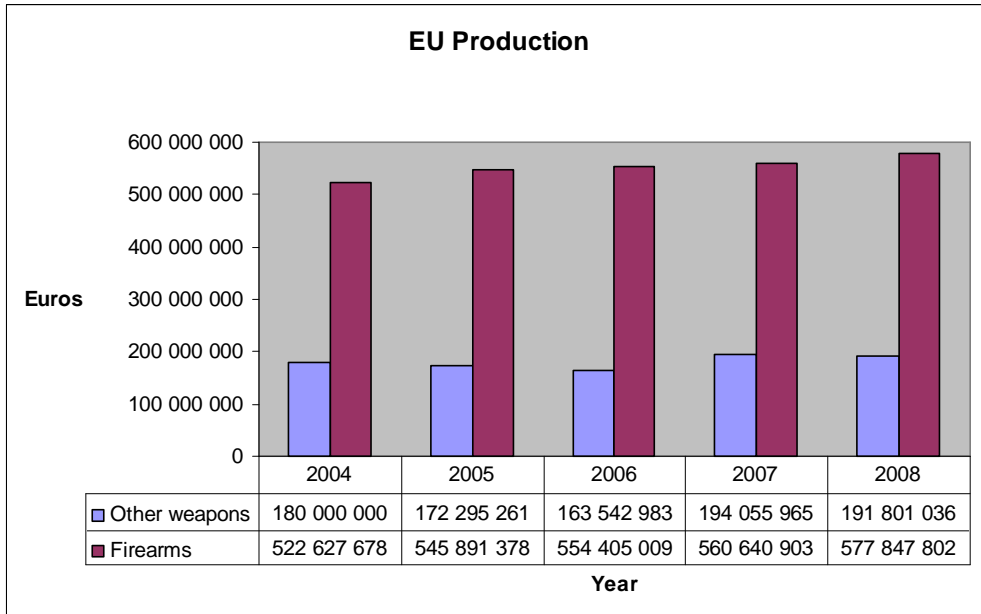
- 3.2. Pellet guns can sometimes bear a resemblance to a real gun (but are not necessarily imitations of a particular model). They shoot cartridges containing small steel, lead or rubber pellets. The principle of gas-propulsion remains the same as for the *airsoft* guns, the essential difference being in the type of cartridge used.
- 3.3. Other objects are similar in certain respects to firearms, without necessarily imitating them in a very realistic manner: take, for example, the launchers used for "paintball". This is a leisure activity practiced in privately-owned natural or urban settings and usually involving two opposing teams of players equipped with launchers which propel paint pellets by gas or compressed air. Paint pellets are projected by a force of between 10 and 13 joules.
- 3.4. Other objects can also bear a certain resemblance to real firearms, such as stun guns or distress/signal guns.
- 3.5. In some types of terminology, the word "replica" can also apply to reproductions of antique weapons: these objects are a more or less faithful (sometimes perfect) reproduction of historical models of weapons, borrowed for this purpose from museums and copied to be sold to collectors.
- 3.6. Lastly, it must be pointed out that a specific Directive clarifies the distinction which must be made between a "replica" firearm and a toy. Indeed, according to point 20 of Annex I to Directive 88/378/EEC, "*faithful reproductions of real firearms*" cannot be considered as toys³. Furthermore, this exclusion is further detailed and extended by the new Directive 2009/48/EC repealing Directive 88/378/EEC, and must be transposed into national law before 20 January 2011.

Replica firearms: some general economic aspects

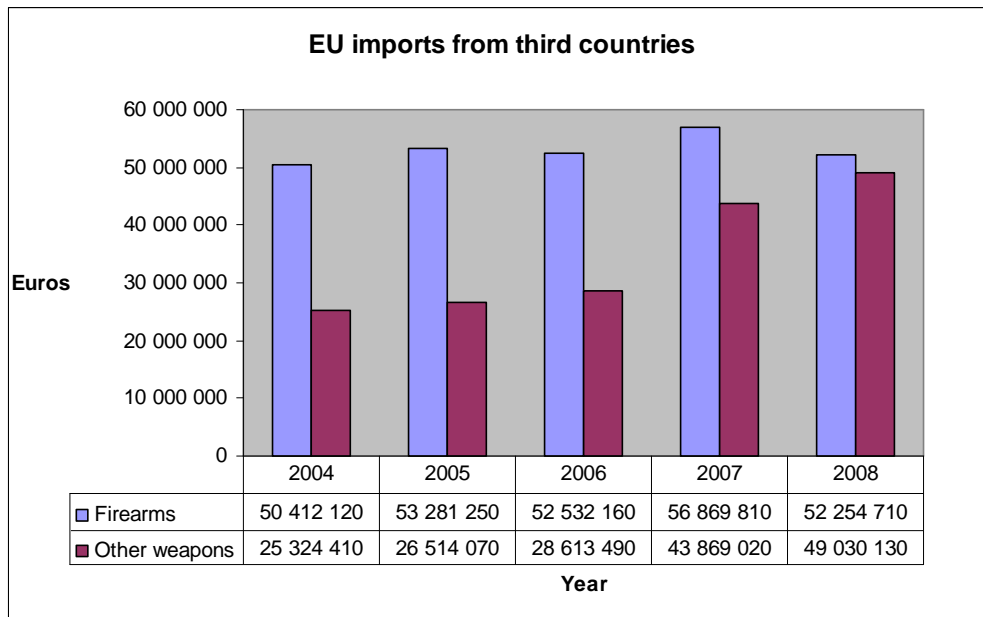
- 4.1. In Eurostat's data, spring, air or gas guns and truncheons are included in the same statistical category⁴.
- 4.2. With regard to EU production in this category, we can observe a relatively stable trend over the last five years, totalling some EUR 190 million in 2008. Production volume has risen somewhat to one million units in 2008. According to the available statistics, the four main producer countries in the EU are Germany (which has a large population of hobby marksmen – around 1.7 million licence-holders), Italy, the United Kingdom and Spain.

³ Article 1 of Directive 88/378/EEC: "This Directive shall apply to toys. A 'toy' shall mean any product or material designed or clearly intended for use in play by children of less than 14 years of age."

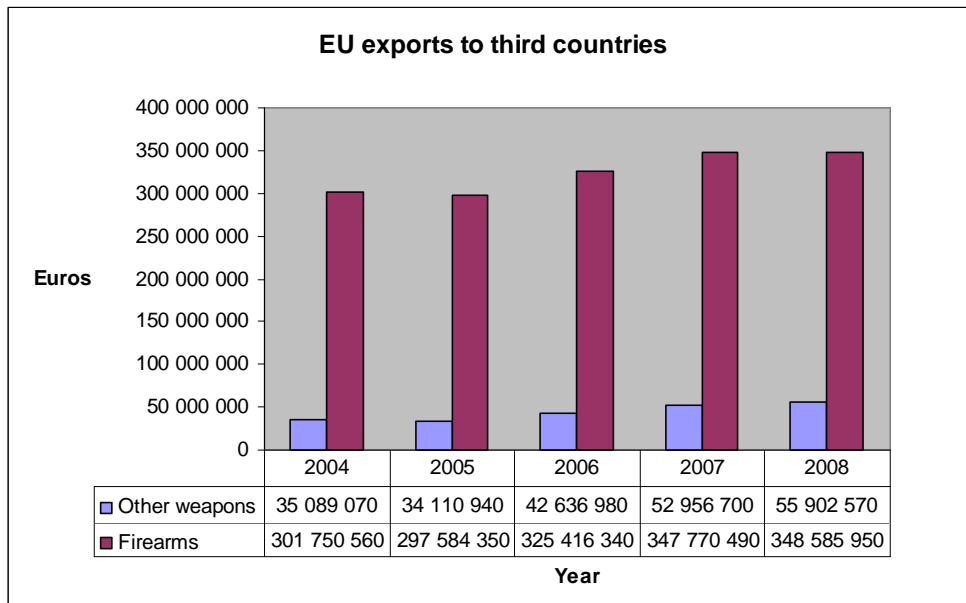
⁴ Eurostat statistics distinguish between the categories "Firearms" and "Other arms". *Firearms: Revolvers and pistols, hunting rifles, rifles, carbines and muzzle-loaders (excluding military use)*. *Other arms: spring, air or gas rifles and pistols and truncheons (excluding military use)*.



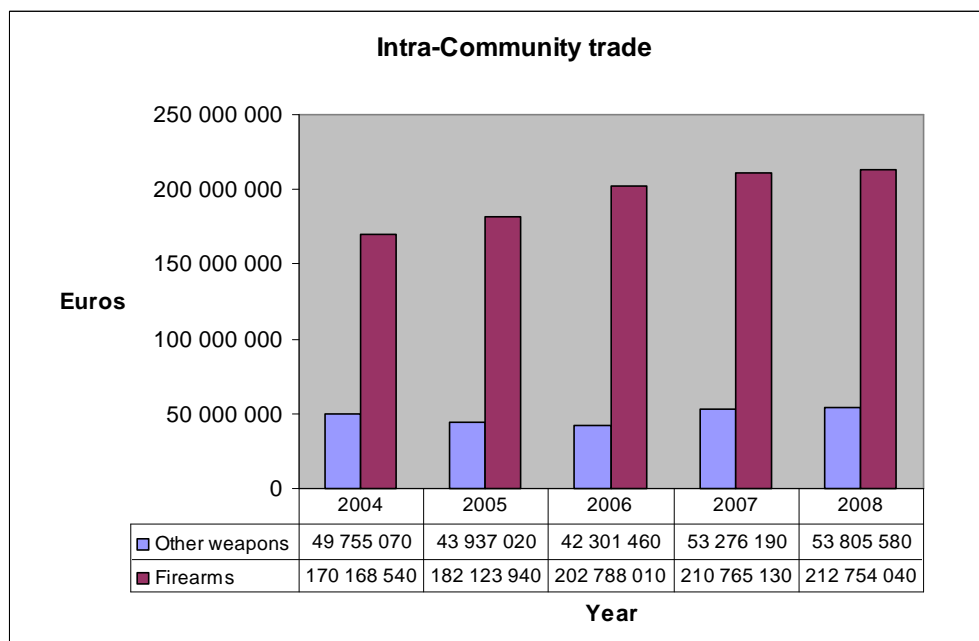
4.3. Imports into the EU from third countries totalled close to EUR 50 million in 2008. Again according to Eurostat, the main suppliers of the European market are China, the United States, Taiwan and Japan. It should also be pointed out that Turkey and Russia manufacture substantial volumes of pellet and alarm guns.



Exports from the EU to third countries total close to EUR 55 million. Their main destinations are the United States, Russia, the United Arab Emirates, Saudi Arabia and Ukraine.



4.4. The value of intra-EU trade remained relatively stable in 2008 at around EUR 53 million. The main suppliers are Germany and Spain. The main buyers are France, the Czech Republic and Italy.



Questionnaire on replica firearms drafted by the European Commission

- 5.1. With a view to understanding the issue of replica firearms as fully as possible, the Commission drafted a questionnaire which was sent to all the Member States in July 2009.
- 5.2. The field of questions raised was as broad as possible, and covered the following aspects:
 - (a) security or policing aspects, (police statistics on crime and offences involving replicas, restrictions on carrying replicas or exhibiting them in public, etc.);
 - (b) legislative and regulatory aspects, with the particular aim of finding out which Member States already referred specifically to replica firearms in their legislation and, in such cases, which provisions applied (placing on the market, application of these provisions to replicas imported and transferred from other Member States, etc.);
 - (c) economic aspects, to try to estimate the economic importance of replicas;
 - (d) aspects linked to the possible conversion of replicas, such as the existence of "anti-conversion" standards or procedures in manufacturing and/or distribution.
- 5.3. All the Member States replied to this questionnaire, which was supplemented by meetings with both the administrative authorities responsible for these issues (mainly the Ministries of the Interior and Ministries of Justice) and representatives of industry, retailers and the socioprofessional categories most affected by the developments of Directive 91/477/EEC.
- 5.4. Lastly, the results of the consultation of the Member States by questionnaire were presented in summary form to their representatives at the second meeting of the Contact Group established by Directive 2008/51/EC, which was held in Brussels on 8 March 2010.



The Member States' responses to the questionnaire, grouped into three categories

- 6.1. The first category covers the Member States which do not, or not really, include the concept of a replica in their legislation: Luxembourg, Greece, Latvia, Estonia, Denmark, Cyprus, Slovenia, Bulgaria and Finland. These Member States show the following particularities:
- they have no large-scale problems of public order caused by the use of replicas;
 - no distinction is made between the products in terms of their capacity in joules;
 - this does not prevent them from adopting, in certain circumstances, very specific measures relating to public order or administrative policy, such as a ban on possessing or exhibiting objects which imitate firearms in public places.
- 6.2. 15 Member States are in the second category: France, Romania, Austria, Belgium, Czech Republic, Spain, Hungary, Ireland, Italy, Malta, Lithuania, Poland, Slovakia, Sweden and Germany. This category covers legislation in which the concept of replicas (or reproductions) of firearms may feature more explicitly, without there necessarily having been reported any particular or significant problems. The following can also be noted:
- the dividing line between what is classified as a replica and what falls more within the scope of legislation on real firearms (for example, as regards declaration, authorisation and transport formalities) is often a matter of a threshold in joules;
 - the 7.5 joules mark is often used as a threshold, but legislation on firearms can already be applied as of 1 joule, or may be applicable only from 17 joules;
 - the choice of threshold (1, 7.5, 17J) does not necessarily imply that replicas which exceed this threshold are in all points subject to the same restrictions as real firearms; thus, the application of legislation on firearms can simply mean that the sale of the replica is subject to the declaration or authorisation formalities, or simply that it cannot be sold to minors;
 - additional measures can be applied to guarantee that this threshold is not exceeded. In the case of Germany, for example, an additional control takes the form of a hallmark⁵ from a particular body (*Physikalisch-Technische Bundesanstalt*), to be stamped during the production stage into certain types of alarm guns. The hallmark guarantees that the power of an alarm gun does not exceed the national limit of 7.5 joules.
- 6.3. The third group is composed of three Member States (Portugal, the Netherlands, and the United Kingdom) whose legislation attempts to provide a stronger regulatory framework for the definition of replicas/reproductions/"realistic imitations". These Member States also express varying levels of concern with regard to the convertibility of certain replicas and their distribution on the market:
- Dutch legislation prohibits the sale and placing on the market of certain replica firearms, irrespective of whether they can shoot projectiles, or whether they can be converted into real firearms; it is not surprising in this context, then, that the customs authorities and police worry about their residents purchasing this type of product in neighbouring countries;

⁵ It takes the form of the letters PTB inside a circle.



- the United Kingdom and Portugal require specific colouring on certain replicas: realistic imitation firearms for the United Kingdom, and replicas for creative use for Portugal (essentially those used for "paintball" or "airsoft"), to try to prevent any confusion with real firearms; in this case, therefore, the criterion of being dangerous does not relate to the ability to shoot a projectile or to the degree of convertibility, but to the degree of imitation or realism in relation to a real weapon;
- furthermore, the United Kingdom expresses a particular concern relating to the fact that neighbouring countries generally have less strict legislation on the marketing of certain alarm guns, the illegal conversion of which is considered possible. As it is illegal to place such alarm guns on the UK market (and therefore to import them), controlling this ban involves additional operations on the part of the responsible authorities.

The main lessons learned from the questionnaire

- 7.1. The first remark relates to the fact that statistical reality is not always easy to grasp by the administrative authorities themselves, in particular as regards the number of items in circulation or the threats to the safety of property and persons caused or facilitated by the use of replicas⁶, and even less so their seriousness.
- 7.2. Nevertheless, security problems in the majority of the cases reported by the Member States seem above all to be correlated to the illicit conversion of alarm guns with a view to making them capable of shooting real bullets. Antique arms or reproductions of such objects are not identified as threats to the security of property and persons.
- 7.3. The replies point out that an object which is a realistic imitation of a firearm (fake weapon imitating a pistol or revolver) can be intimidating and be used to commit an offence. Such usage can of course be even riskier for the offender involved due to the possibility of an armed response, in particular by police officers when acting in what they consider legitimate defence.
- 7.4. However, reported cases of the illicit conversion of alarm guns and, more generally, the use of replicas with ill intent to intimidate or stage hold-ups must be seen in the context of the relatively high number of alarm guns (or guns which can be used to shoot blanks) in the European Union. If airsofts are added to these categories, an estimated 15 to 18 million replicas are owned in Germany, for example.
- 7.5. It must also be noted that certain replicas (alarm guns in particular) can sometimes be used in a context of self-defence; they can therefore discourage their owner, who could have more or less legitimate concerns for his or her personal safety, from applying for a licence to carry a real weapon or, worse, from purchasing a real weapon illegally.
- 7.6. Many EU countries do not manufacture objects of this type, report any major problems or have enlightening statistics on owners of replica firearms.
- 7.7. A few Member States report occasional concerns over cross-border movements of replica firearms, above all when their legislation is already very restrictive. Furthermore, certain alarm guns manufactured outside the EU give cause for particular

⁶ With the exception of the Netherlands which has precise statistics, albeit on less precisely defined objects categorised as "look-a-likes", and the United Kingdom, which reports some 1 500 crimes and offences for the year 2007/2008 committed with "realistic" or less realistic imitations.



concern, as they are manufactured in a manner which would make them too easily convertible, i.e. able to shoot real bullets.

- 7.8. It must also be pointed out that the member countries of the Permanent International Commission for Portable Firearms Testing (CIP), which includes most EU manufacturers, already subject alarm guns to tests for approval, type designation, conformity of key dimensions, resistance and operational safety.

Owners of replicas

- 8.1. There is very little overlap between owners of replicas and ordinary users of firearms, who are mainly hunters, hobby marksmen and other categories of firearm owners, as well as firearm manufacturers and retailers of course.
- 8.2. The second group of replica owners comprises collectors of weapons, irrespective of whether or not they are antique, or reproductions of weapons. It should be noted that some of them collect alarm guns which imitate real firearms. This category can therefore be affected by any national provisions governing replicas.
- 8.3. Retailers are probably the socioprofessional category which is most concerned by national legislation on the sale of replicas. In some countries, they can be sold only by professional gunsmiths or, at least, may not be sold in toy shops.

Conclusions

- 9.1. It should be borne in mind that nine Member States do not, or not really, include the concept of a replica in their legislation and do not have any major problems relating to public order caused by the use of replicas, whereas 15 others do not report any particular or significant problems with transfers or imports from other countries. Only a few Member States with more restrictive national legislation on replicas sometimes express concerns linked to cross-border movements of replica firearms. In these conditions, there is very little to suggest that European harmonisation of national legislation on replicas would improve the functioning of the internal market by removing barriers to the free movement of goods or by eliminating distortions of competition.
- 9.2. Furthermore, the Member States already have a real degree of discretion in issuing rules on the placing on the market and use of replicas⁷. These national rules governing the marketing and use of replicas must respect the principle of the free movement of goods (Articles 34 to 36 of the Treaty on the Functioning of the European Union, TFEU) and of course be without prejudice to any specific police cooperation measures. Article 34 TFEU prohibits national measures which can or could, directly or indirectly, impede intra-Community trade. In this respect, regulations by one Member State prohibiting the importation, manufacture, sale or use of replica firearms could constitute a barrier to trade within the meaning of Article 34 TFEU.
- 9.3. However, it is equally clear that such regulations can, this time in compliance with Article 36 TFEU, be justified for reasons of public safety and the protection of the health and life of persons, albeit provided that the regulations in question do not

⁷ It must be pointed out here that Directive 91/477/EEC establishes the following exclusion in Article 2(1): "This Directive is without prejudice to the application of national provisions concerning the carrying of weapons."



undermine the principle of proportionality. In particular, it must not be possible for the pursued objective to be achieved by measures less restrictive to intra-Community trade.

- 9.4. With regard to replica firearms, various aspects therefore need to be taken into consideration when judging the proportionality of the measure: in particular, we must examine whether bans are absolute or whether derogations exist, the limitation of bans on sale to minors, Internet- or simply distance-selling, and the limitation of the ban on using or exhibiting replicas in public places.
- 9.5. Moreover, the free movement of replica firearms within the EU is also provided for by Regulation (EC) No 764/2008 of the European Parliament and of the Council of 9 July 2008 laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State and repealing Decision No 3052/95/EC⁸. This Regulation is applicable as of 13 May 2009. It establishes the rules and procedures to be followed by the competent authorities of a Member State when they make or intend to make a decision referred to in Article 2(1) which would impede the free movement of a product legally placed on the market in another Member State and which falls within the scope of Article 34 TFEU.
- 9.6. Consequently, Articles 34 and 36 TFEU and Regulation (EC) No 764/2008 already facilitate the free movement of these products within the EU, while taking account of the security concerns of the Member States. In this respect, it should be pointed out that Directive 91/477/EEC relates to the establishment and functioning of the internal market.
- 9.7. It must also be remembered that, in the absence of more specific provisions in EU legislation, all products intended for consumers are subject to the provisions of Directive 2001/95/EC on general product safety, which in certain cases allows the Member States to withdraw or recall certain dangerous products from the market.
- 9.8. Furthermore, the inclusion of all replicas in the field of application of Directive 91/477/EEC would automatically make them subject to all the provisions of the Directive. However, it should be remembered that, since its amendment by Directive 2008/51/EC, the Directive already applies to replicas which can be converted into firearms, namely certain alarm guns (or certain replicas intended simply to shoot blanks) which, due to their appearance and how they were produced, are so similar to a firearm that all the requirements of the Directive (marking, traceability, firearms register in particular) are easily applicable⁹.
- 9.9. Extending the Directive to other types of replica would be much more difficult, since this would mean that manufacturers, dealers and owners of these replicas would be subject to all the obligations of the Directive. However, at present, the Member States

⁸ OJ L 218 of 13 August 2008, p. 21. Recital 14 of this Regulation specifies that "Weapons are products that can constitute a serious risk to the health and safety of persons and to the public security of the Member States. Several specific types of weapons lawfully marketed in one Member State might, on grounds of the protection of the health and safety of persons and the prevention of crime, be subject to restrictive measures in another Member State. Such measures might consist of specific controls or authorisations before weapons lawfully marketed in one Member State are placed on the market of another Member State. Member States should therefore be permitted to prevent weapons being placed on their markets until their national procedural requirements are fully met."

⁹ Cf. recital 4 of Directive 2008/51/EC: "Police intelligence evidence shows an increase in the use of converted weapons within the Community. It is therefore essential to ensure that such convertible weapons are brought within the definition of a firearm for the purpose of Directive 91/477/EEC".



can already require authorisation for any possession, acquisition or transfer of a replica in accordance with Article 36 TFEU.

- 9.10. Moreover, and still on the basis of the above assumption, sensitive issues undoubtedly arise regarding in particular the breakdown of replicas included in the nomenclature set out in Annex I to Directive 91/477/EC, which divides firearms into different categories.
- 9.11. It is for these reasons that replicas, with their various characteristics and purposes, should not be included in the field of application of Directive 91/477/EC, especially as those which can be converted to a firearm and therefore treated as one are now covered by Directive 2008/51/EC.



EFE Management summary

The European Firearms Experts (EFE) Threat Assessment (TA) on illicit firearms drawn up in 2008/2009 identified key focus areas in the illicit trafficking in and the smuggling/unauthorised possession of firearms. Of these areas identified as a priority, one concerns loopholes in weapons legislation resulting from the different weapons legislation of the EU Member States. In the Netherlands, the National Firearms Platform (*Landelijk Platform Vuurwapens*, LPV) aims to address this issue. This document represents the first step to clearly defining the nature and scope of loopholes in European weapons legislation. In practical terms, this study should respond to the following key question:

“What is the nature of the problems arising from weapons and firearms legislation in the EU?”

Research conducted at the EU- and EU Member State-level aims to provide insight into differences in national legislation on the legal possession of firearms, ammunition and explosives with respect to Directive 91/477/EEC – 2008/51/EC, and the for combating the illegal possession of firearms, ammunition and explosives so important Protocol against the illicit manufacturing of and trafficking in firearms, their parts, components and ammunition, supplementing the United Nations Convention against transnational organised crime of 31 May 2001, New York.

Everyday policing reveals many differences in the national weapons and firearms legislation of the EU Member States. These differences, as well as the disappearance of Europe’s internal borders, negatively impact the control and enforcement of firearms legislation. Criminals are more than willing to exploit this, as a result of which the illicit trafficking in firearms, parts and components and ammunition is thriving and use of firearms in criminal offences is growing at an alarming rate.

Differences in legislation also give rise to legal insecurity for Europe’s citizens who enjoy the privilege of travelling freely within the EU. While the possession of certain objects is legal in one Member State, it is considered a criminal offence in another. This can have major implications. For instance, due to national legislation of course, individuals with a criminal record will be refused a certificate of good conduct.

Although the enforcement of laws and regulations is a government matter, it also ultimately requires broad public support to be successful. After all, the overwhelming majority of the illicit firearms were first legally traded on the market. It is therefore of the utmost importance to adequately organise the legal possession of firearms, ammunition and explosives in the European Union. This is why studies are being conducted into the opportunities and willingness of European - and national federations and associations of firearm owners to undertake a very important advisory part in the issue of firearms/weapons certificates by the public authorities. They do know their world better than the authorities do and have the understandable and natural urge to keep the wrong elements out of their federations.

Optimising the monitoring of the legal possession of firearms across Europe will help to free up investigative capacity to combat the illicit trafficking in firearms.

According to Directive 2008/51/EC, all European Member States are instructed to establish an electronic system, being able to track the life cycle of a firearm, by the end of the year 2013.

This progress report provides a detailed, well-substantiated description, rooted in actual practice, of the purpose of the study, its structure and methodology, as well as the results achieved so far. In anticipation of the final report, it provides a preliminary conclusion, accompanied by practical recommendations.

LPV Chairman



**EUROPEAN SPORT SHOOTING FORUM (ESSF)
Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL implementing Article 10 of the United Nations' Firearms Protocol and
establishing export authorization, import and transit measures for firearms,
their parts and components and ammunition**

Common Position of ESSF (as of January 25, 2011)

General considerations

1. The European Sport Shooting Forum (ESSF) - composed of *the European Association of the Civil Commerce of Weapons (AECAC), the Association of European Sporting Ammunition Manufacturers (AFEMS), the Permanent International Commission for the Proof of Small-Arms (C.I.P. - observer), the European Shooting Confederation (ESC), the Association of European Manufacturers of Sporting Firearms (ESFAM), the Federation of Associations for Hunting and Conservation of the EU (FACE), the Foundation for European Societies of Arms Collectors (FESAC), the Fédération Internationale de Tir aux Armes Sportive de Chasse (FITASC - observer), and the Institut Européen des Armes de Chasse et de Sport (IEACS)* - shares the objectives behind this proposed Regulation, namely to prevent and eradicate illegal trafficking in firearms and related activities that continue to challenge the internal security of the EU as well as at global level.
2. We welcome the fact that the European Parliament offers to the relevant stakeholders, representing a sizable proportion of European society, the opportunity to present their views based on their extensive expertise and knowledge.
3. In the European Union sporting firearms activities represent a substantial socio-economic sector (including many thousands of small and medium-sized enterprises) with the participation of well over 10 million law-abiding and responsible citizens.
4. It is, however, erroneous to believe that by increasingly restricting and regulating legal trade and use of sporting firearms illegal trafficking in firearms would be reduced.
5. Such restrictions would on the other hand have serious negative economic and social consequences for the competitiveness of and employment in the European industry, and the trade in sporting firearms and ammunition in general, and for export in particular. Annual funds expended on sport shooting activities in the European Union are estimated at 18 billion Euro.
6. In this context, it is important to underline that many aspects covered by the current proposal are already effectively dealt with by national legislation, rules and provisions.
7. It is also necessary to emphasize that this proposed Regulation does not apply for internal transit, transfer and movements of firearms and ammunition within the European Union.
8. We highly recommend that the Regulation, in its commendable aims, should not finish by imposing unnecessary burdens and unjustified restrictions which could only severely damage the economy of the sector.



Article 1

Text proposed by the Commission

This Regulation lays down rules governing export authorization, and import and transit measures for firearms, **their parts and essential components** and ammunition, for the purpose of 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 (hereinafter referred to as "the UN Firearms Protocol").

Alternative text suggested

This Regulation lays down rules governing export authorization, and import and transit measures for firearms, their **essential parts** and ammunition, for the purpose of 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 (hereinafter referred to as "the UN Firearms Protocol").

Article 2, para 1 No 1

Text proposed by the Commission

For the purposes of this Regulation

1. "Firearm" means any portable barrelled weapon that expels, is designed to expel or may be converted to expel a **shot, bullet or** projectile by the action of a combustible propellant.

An object is considered as capable of being converted to expel a **shot, bullet or** projectile by the action of a combustible propellant if:

- it has the appearance of a firearm, and
- as a result of its construction or the material from which it is made, it can be so converted;

Alternative text suggested

For the purposes of this Regulation

1. "Firearm" means any portable barrelled weapon that expels, is designed to expel or may be **readily** converted to expel a projectile by the action of a combustible propellant.

An object is considered as capable of being **readily** converted to expel a projectile by the action of a combustible propellant if:

- it has the appearance of a firearm, and
- as a result of its construction or the material from which it is made, it can be so converted **with ordinary tools**;

Justification

The phrase "to expel a shot" is inappropriate as it could refer to firearms that load blanks and it therefore must be eliminated. Moreover, since the "bullet" and "projectile" are synonymous, the word "projectile" is sufficient. The concept of "readily" appears already in the French version of the Proposal.

As regards convertibility, it is clear that sufficient technical skill is able to transform any metallic object into a firearm. Consequently, the category of firearms must include only those objects that can be converted without any special technical skill, and without the use of particular equipment (as already laid down in Directive 91/477/EEC, Annex I.II.5).

Article 2, para 1 No 2



Text proposed by the Commission

“**parts and essential components**” means any element or replacement element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a firearm;

“essential component” means the breach-closing mechanism, the chamber and the barrel of a firearm which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted;

Alternative text suggested

“**essential parts**” means any element or replacement element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a firearm;

Justification

It must be said that from the technical and legal aspects, “parts” and “components” are absolutely synonymous. Thus the word “components” should in general be removed from the text, because it is useless and conducive to confusion of interpretation. The *definition of “essential component” should be eliminated without hesitation*. This is the result of an error produced during the coordination of the text of Directive 2008/51/CE, owing to transposition of the annexe in Article 1. Such definition is useless under the definition aspect, since all the parts of the firearm which can be included in it fall in any case within the preceding definition; furthermore, it is incorrect from the technical aspect, since it is not clear what may be considered as the “closure mechanism”; finally, this vagueness itself creates the risk that the said definition might include as essential parts, subject to the said authorizing procedure of the firearm to which they belong, even those metal bits that are part of the closing mechanisms – pins, screws, linkages – that are of no interest as regards public safety and do not in any way represent a peculiar or essential part of the firearm. It therefore seems quite clear that it is absolutely necessary that the definition of “essential component” and the corresponding phrases be removed from the text, and that they be similarly removed from the text of Directive 91/477/CEE, as subsequently modified by Directive 2008/51/CE.

Article 2, para 1 No 3

Text proposed by the Commission

“ammunition” means the complete **round or the components thereof, including** cartridge cases, primers, propellant powder, **bullets or projectiles that are used in a firearm, provided that those components are themselves subject to authorization in the relevant Member State;**

Alternative text suggested

“ammunition” means the complete **cartridge, as used in a firearm, consisting of** cartridge case, primer, propellant powder **and** projectile;

Justification

Only propellant powders are subject to authorization procedure at the community level (Directive 93/15/EEC and subsequent). The inert components and the primers do not represent a danger, either from the *security* aspect or the *safety* aspect. Consequently, the definition of ammunition must include exclusively the finished cartridge.

Article 2, para 1 No 13



Text proposed by the Commission

'multiple export authorisation' means an authorisation granted to one specific exporter for multiple shipments to the same end user or consignee **in a** third country and covering one or more firearms, their parts **and components** and ammunition;

Text suggested

'multiple export authorisation' means an authorisation granted to one specific exporter for multiple shipments to the same end user or consignee **or to the same** third country and covering one or more firearms, **essential** parts and ammunition;

Justification

This amendment reflects the practice already in force in several Member States.

Article 2, para 1 No 16 (New)

Text proposed by the Commission

Text suggested

'Third country' means a country out of the customs territory of the European Union

Article 3, para 1

Text proposed by the Commission

Alternative text suggested

1. This Regulation shall not apply to:

- (a) State to State transactions or State transfers;
- (b) firearms, **their parts and essential components** and ammunition if specially designed for military use and, in any case, firearms of the fully automatic firing type;
- (c) firearms, **their parts and essential components** and ammunition when destined for armed forces, the police, and the public authorities of the Member States;
- (d) collectors and bodies concerned with cultural and historical aspects of firearms, their **parts and essential components** and ammunition and recognized as such by the Member State in whose territory they are established, provided that tracing measures are ensured;
- (e) deactivated firearms;
- (f) **antique** firearms **and their replicas as defined in accordance with National legislation, provided that antique firearms do not include firearms manufactured after 1899;**
- (g) shipments by sea and through ports of third countries, provided that there is no transshipment or change of means of transport.

1. This Regulation shall not apply to:

- (a) State to State transactions or State transfers;
- (b) firearms, their **essential parts** and ammunition if specially designed for military use and, in any case, firearms of the fully automatic firing type;
- (c) firearms, their **essential parts** and ammunition when destined for armed forces, the police, and the public authorities of the Member States;
- (d) collectors and bodies concerned with cultural and historical aspects of firearms, their **essential parts** and ammunition and recognized as such by the Member State in whose territory they are established, provided that tracing measures are ensured;
- (e) deactivated firearms;
- (f) firearms **manufactured before 1900 and their replicas, and all muzzle-loading arms;**
- (g) shipments by **air or** sea through ports or airports of third countries, **including the transit through territorial waters or air space of one or more Member States**, provided that there is no transshipment or change of means of transportation;
- (h) **exports and transit of firearms, essential parts and ammunition to and through the territory of third countries that did not ratify the UN Firearms Protocol.**



With reference to letter (f), the proposed phrase has been rationalized. Here it seems essential that there be a sole criterion at the European level to define the field of application of the Regulation also as it pertains to antique firearms, since differentiated criteria could cause discrimination against certain citizens and operators within the EU. Logically, if the replicas of antique firearms, including breech-loading types, are considered of insignificant interest as regards safeguarding the principles stated in the Regulations, similarly considered must be all muzzle-loading arms, and not only those which are replicas of antique firearms.

Concerning letter (g), it is not clear why transfers by air should be considered differently from those by ship.

Then, with reference further to letter (h), it should be said that it is not legally possible to impose a regulation for application of international norms on a country that has not committed itself to respect such regulations. The Protocol constitutes in fact a conventional international juridical system that applies only to its components, namely to those countries that have ratified it.

Article 5

Text proposed by the Commission

1. Before issuing an export authorization or a multiple export authorization for firearms, their parts **and components** and ammunition, the Member State concerned shall verify that:

(a) the **importing third country has issued the relevant import authorization**, and

(b) the third countries of transit, if any, have given notice in writing – **and at the latest prior to shipment – that they have no objection to the transit.**

2. If no objections to the transit are received within twenty **working** days from the day of the written **request for no objection to the transit** submitted by the exporter, the consulted third country of transit shall be regarded as having no objection and as having given its tacit consent to the transit.

3. The exporter shall supply the competent authority of the Member State responsible for issuing the export or multiple export authorization with the necessary documents proving that the importing third country has authorized the import and that the transit third country had no objection to the transit or has given its tacit consent to it.

4. The Member States shall **process requests for export authorization** or multiple export authorization within a period of time **to be determined by National law or practice**, which in all cases shall not exceed **ninety working** days.

5. The period of validity of an export **or a multiple export** authorization **shall be** decided by the Member States, **but** shall not be less than twelve months.

6. Member States **may decide** to make use of electronic documents **for the purpose of processing the requests for authorization.**

Alternative text suggested

1. Before issuing an export authorization or a multiple export authorization for firearms, **essential** parts and ammunition, the Member State concerned shall verify that:

(a) the **importer is entitled to import**, and

(b) the third countries of transit, if any, have **been** given notice in writing.

2. If no objections to the transit are received within twenty **calendar** days from the day of the written **transit notice** submitted by the exporter, the consulted third country of transit shall be regarded as having no objection and as having given its tacit consent to the transit.

3. The exporter shall supply the competent authority of the Member State responsible for issuing the export or multiple export authorization with the necessary documents proving that the importing third country has authorized the import and that the transit third country had no objection to the transit or has given its tacit consent to it.

4. The Member States shall **complete the procedures for issuing single** or multiple export authorization within a period of time which in all cases shall not exceed **sixty calendar** days **from the day of application.**

5. The period of validity of an export authorization decided by the Member States shall not be less than twelve months, **whereas the period of validity of a multiple export authorization shall not be less than twenty four months.**

6. Member States **shall endeavour** to make use of **information technologies in order to facilitate export procedures and communication with third countries.**



1. The reference to “working days” cannot be offered as a criterion of time, since these differ from country to country and can generate an unacceptable uncertainty. We note that a period of “twenty working days” represents an overall wait of one month, certainly excessive in the context of transfers within a quick-moving and globalized market like today’s. With reference to point (a), the proposed amendment is necessary given the fact that in many jurisdictions the import permit does not exist, while the importer is permanently entitled to import. With reference to point (b), it appears unlikely that the transit countries can give notice in writing in relation to all carriages of firearms and ammunition sent every day, it certainly would create an excessive administrative burden. However, it is important that transit countries are informed of any transport, in order to raise objection, if necessary.

4. Here, too, the reference to “working days” appears unpractical. Terms exceeding ninety days will adversely affect the competitiveness of European companies vis-à-vis those from abroad, which often benefit from greater administrative efficiency and very quick issue times, thus arriving with a more competitive posture on the international markets. Supply times are in fact an essential criterion in international commercial competition.

5. It is very clear that the maximum duration of multiple authorizations must be substantially lengthened. A sole authorization procedure for several shipments should be developed, so as to cut down the administrative load for the Member States as well as the related costs for the operators, in this way improving the competitiveness of the entire system.

6. Also the communications between countries should include the new IT and telematic technologies as much as possible since they make the system more rapid, efficient and competitive.

Article 6

Text proposed by the Commission	Alternative text suggested
<p>1. For the purpose of tracing, the export authorization or multiple export authorization, and the import authorization and accompanying documentation shall together contain information that includes:</p> <ul style="list-style-type: none"> (a) the dates of issuance and expiry of authorizations; (b) the place of issue of authorizations; (c) the country of export; (d) the country of import; (e) whenever applicable, the third countries of transit; (f) the consignee; (g) the final recipient, if known at the time of the shipment; (h) a description and the quantity of the firearms, their parts and components and ammunition, including the marking applied to the firearms. <p>2. The information referred to in paragraph 1, if contained in the import authorization, shall be provided by the exporter in advance to the third countries of transit, at the latest prior to the shipment.</p>	<p>1. For the purpose of tracing, the export authorization or multiple export authorization, and the import authorization and accompanying documentation shall together contain information that includes:</p> <ul style="list-style-type: none"> (a) the dates of issuance and expiry of authorizations; (b) the place of issue of authorizations; (c) the country of export; (d) the country of import; (e) whenever applicable, the third countries of transit; (f) the consignee; (g) the final recipient, if known at the time of the shipment; (h) a description and the quantity of the firearms, their essential parts and ammunition; (i) a declaration stating that firearms, their essential parts and ammunition have been marked in compliance with Article 4 of Directive 91/477/EEC. <p>2. The information referred to in paragraph 1, if contained in the import authorization, shall be provided by the exporter to the third countries of transit prior to the shipment.</p>



Justification

The reference to the “description” of the “marking” of firearms, parts and ammunition may lead one to believe that in the export authorization (and in the corresponding import authorization) there must be contained all the information concerning the marking of every firearm, essential part or elementary packaging of ammunition. That would make export practically impossible, because at the time the request for export is made the goods are usually not yet produced, and the pertinent information regarding markings is therefore unavailable. Consequently, with reference to Article 6(i), it is important that the exporter declares that all the firearms, essential parts and ammunition exported have been marked in compliance with the EC law derived. The second paragraph has been simplified to make it clearer.

Article 7

Text proposed by the Commission

1. The simplified procedures set out in paragraphs 2, 3 and 4 shall apply for the temporary export of firearms for verifiable lawful purposes, which include hunting, sport shooting, evaluation, exhibitions and repair.
2. The transit measures as established by this Regulation will not apply to temporary exports.
3. When leaving the customs territory of the Union through a point of crossing of the external border of the Member State of their residence, for the temporary export of one or more firearms during a journey to a third country, hunters and sport shooters may produce the European firearms pass pursuant to Articles 1 and 12 of Directive 91/477/EEC, a national firearms licence, a national hunting permit, or other valid national document issued by the competent authority of the Member State of their residence.
4. When leaving the customs territory of the Union through a point of crossing of the external border of a Member State other than that of their residence, for the temporary export of one or more firearms during a journey to a third country, hunters and sport shooters may produce a valid European firearms pass issued pursuant to Articles 1 and 12 of Directive 91/477/EEC by the competent authority of the Member State of their residence. The competent authority of the Member State in which the point of crossing of the external border of the Union is situated shall notify the competent authority of the Member State of residence of the hunter or sport shooter that issued the European Firearms pass of the date of the temporary export, the quantity of firearms temporarily exported and the prospective date of return, as declared by the hunter or sport shooter at the time of the temporary export.
5. Hunters and sport shooters who intend to make use of the simplified procedure referred to in paragraphs 3 and 4 of this Article shall substantiate the reasons for their journey, in particular by producing an invitation or other proof of their hunting or target shooting activities in the third country of destination.

Alternative text suggested

1. The simplified procedures set out in paragraphs 2 and 3 shall apply for the temporary export of firearms, **essential parts and ammunition** for verifiable lawful purposes, which include hunting, sport shooting, evaluation, exhibitions and repair.
2. The transit measures as established by this Regulation will not apply to temporary exports.
3. When leaving the customs territory of the Union, **and returning to this territory**, for the temporary export of one or more firearms, **essential parts and ammunition** during a journey to a third country, hunters and sport shooters may produce, **as sole document**, a valid European firearms pass issued pursuant to Articles 1 and 12 of Directive 91/477/EEC by the competent authority of the Member State of their residence.
4. Hunters and sport shooters who intend to make use of the simplified procedure referred to in paragraphs 3 of this Article shall substantiate, **if requested**, the reasons for their journey, in particular by producing an invitation or other proof of their hunting or target shooting activities in the third country of destination.
- 5. For the purpose of evaluation, exhibition and repair of firearms, essential parts and ammunition, Member States apply similar simplified procedures for temporary export as those provided for under paragraphs 3 and 4.**



Justification

One should be aware that the proposed system does not add anything to public security and safety. Indeed, in case a hunter / sport shooter leaves the EU from his country of residence or returns, nobody notifies the “competent authority” of that MS, simply because he only has to produce his EFP. What is then the added value of a heavy notification procedure by another MS? With the proposed system the whole procedure would be more simple and therefore easier to implement (which will in fact contribute to improve public security) without adding unjustified restrictions for law-abiding hunters and sport shooters. - Concerning paragraph 3, and in clarification that the EFP is sufficient as documentation for the application of simplified procedures for hunters and sport shooters, it should be noted: Article 10, paragraph 6, of the UN Firearms Protocol states that Parties may adopt simplified procedures for evaluation, exhibitions and repair activities.

Article 8

Text proposed by the Commission

1. In deciding whether or not to grant an export authorization or a multiple export authorisation under this Regulation, the Member States shall take into account all relevant considerations including, where appropriate:

- (a) the obligations and commitments they have each accepted as members of the relevant international export control arrangements, or by ratification of relevant international treaties;
- (b) their obligations under sanctions imposed by decisions adopted by the Council or by a decision of the Organisation for Security and Cooperation in Europe (OSCE) or by a binding resolution of the Security Council of the United Nations, in particular on arms embargoes;
- (c) considerations of national foreign and security policy, including those covered by Council Common Position 2008/944/CFSP23;
- (d) considerations about *intended* end use, consignee and the risk of diversion.

2. In addition to the criteria set out in paragraph 1, when assessing an application for a multiple export authorisation Member States shall take into consideration the application by the exporter of proportionate and adequate means and procedures to ensure compliance with the provisions and objectives of this Regulation and with the terms and conditions of the authorisation.

Alternative text suggested

1. In deciding whether or not to grant an export authorization or a multiple export authorisation under this Regulation, the Member States shall take into account all relevant considerations including, where appropriate:

- (a) the obligations and commitments they have each accepted as members of the relevant international export control arrangements, or by ratification of relevant international treaties;
- (b) their obligations under sanctions imposed by decisions adopted by the Council or by a decision of the Organisation for Security and Cooperation in Europe (OSCE) or by a binding resolution of the Security Council of the United Nations, in particular on arms embargoes;
- (c) considerations of national foreign and security policy, including those covered by Council Common Position 2008/944/CFSP23;
- (d) considerations about intended end use, consignee and the **concrete** risk of diversion.

2. In addition to the criteria set out in paragraph 1, when assessing an application for a multiple export authorisation Member States shall take into consideration the application by the exporter of proportionate and adequate means and procedures to ensure compliance with the provisions and objectives of this Regulation and with the terms and conditions of the authorisation.



Article 9, para 1, letter a

Text proposed by the Commission

Alternative text suggested

1. Member States shall:

1. Member States shall :

(a) refuse to grant an export or a multiple export authorization if the natural or legal person applying for such authorization has **any** previous criminal records concerning illicit trafficking in firearms, their **parts and essential components** or ammunition, or **to** other **serious** crimes;

(a) refuse to grant an export or a multiple export authorization if the natural or legal person applying for such authorization has previous criminal records concerning illicit trafficking in firearms, their essential **parts** or ammunition, or **concerning** other **violent intentional crimes**;

Justification

The severity of a crime is difficult to establish, and a generic indication lends itself to discretionary application which may result in flexible discriminations. The reference to “violent intentional crimes”, mentioned in Article 5 para. 1 letter (b) of Directive 91/477/EEC, subsequently modified by Directive 2008/51/EC, is intended to overcome this generality.

Article 12

Member States shall - to the extent possible - take such measures as may be necessary to ensure that the authorisation procedures are secure and that the authenticity of authorisation documents can be verified or validated.

If necessary, Member States' competent authorities shall verify or validate the authenticity of authorization documents via diplomatic channels.

Verification and validation may also be ensured where appropriate via diplomatic channels

Justification

The authorization process provided in the proposal could cause serious difficulties to many European companies. With adoption of the solution provided, the bureaucracy issue could be minimized and the security of the procedures improved.

Article 20, para 1

This Regulation shall enter into force on the **hundred and twentieth** day following that of its publication in the Official Journal of the European Union

This Regulation shall enter into force on the **first day of the 37th month** day following that of its publication in the Official Journal of the European Union.

Justification

A delay of a hundred and twenty days is totally unrealistic, considering the necessity to change a lot of national procedures to adopt the new rules, and accordingly to modify the related documentation. Some of those provisions are linked to the newly amended firearms directive, 91/477/EEC, to be fully implemented by 2014. Some Member States (e.g. France and Spain) are still in a process of implementing those provisions. It is unrealistic to schedule the coming into force of the proposed Regulation before the full implementation of directive 91/477/EEC.



Annex 1

List of firearms, **their parts and essential components** and ammunition as referred to in Article 2(1) and 4(1):

Combined Nomenclature Code and Description

Code CN Description

A: Firearms

- 9302 00 00 Revolvers and pistols, other than those of heading 9303 or 9304
- **9303 Other firearms including sporting shotguns and rifles.**
- 9303 20 Other sporting, hunting or target-shooting shotguns, including combination shotgun-rifles:
- 9303 20 10 - Single-barrelled, smooth bore
- **9303 20 95 - Other**
- 9303 30 00 Other sporting, hunting or target-shooting rifles.
- **9303 90 00 Other.**
- **9304 00 00 Other arms (for example, spring, air or gas guns and pistols).**

B: **Parts and essential components**

- **9305 Parts and accessories of articles of headings 9302 to 9304:**
- 9305 10 00 – Of revolvers or pistols
 - Of shotguns or rifles of heading 9303:
- 9305 21 00 – – Shotgun barrels
- **9305 29 00 – – Other**
- **9305 99 00 – Other**

C: Ammunition

- 9306 Cartridges and other ammunition and **projectiles and parts thereof, including shots**
- - Shotgun cartridges **and parts thereof:**
- 9306 21 00 – – Cartridges
- **9306 29 – – Other:**
- **9306 29 40 – – – Cases**
- **9306 29 70 – – – Other**
- **9306 30 – Other cartridges and parts thereof:**
- **9306 30 10 – – For revolvers and pistols of heading 9302**
 - – – Other:
- 9306 30 91 – – – – Centrefire cartridges
- 9306 30 93 – – – – Rimfire cartridges
- **9306 30 97 – – – – Other**
- **9306 90 – Other:**
- **9306 90 90 – – Other**

List of firearms, **essential parts** and ammunition as referred to in Article 2(1) and 4(1):

Combined Nomenclature Code and Description

Code CN Description

A: Firearms

- 9302 00 00 Revolvers and pistols, other than those of heading 9303 or 9304
- 9303 20 **00** Other sporting, hunting or target-shooting shotguns, including combination shotgun-rifles:
- 9303 20 10 - Single-barrelled, smooth bore
- 9303 30 00 Other sporting, hunting or target-shooting rifles.

B: **Essential parts forming part of**

- 9305 10 00 – revolvers or pistols
 - shotguns or rifles of heading 9303:
- 9305 21 00 – – Shotgun barrels

C: Ammunition **as defined in Article 2.1.3 falling under**

- 9306 21 00 – – Shotgun cartridges
- 9306 30 10 – – For revolvers and pistols of heading 9302
- 9306 30 91 – – – – Centrefire cartridges
- 9306 30 93 – – – – Rimfire cartridges



All mentions of “other” products shall be erased. Any item shall be clearly defined in the Annex in order to avoid difficulties for customs officers and trading companies.

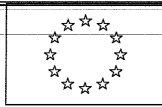
Any mention of arms and objects out of the scope of the UN Protocol, such as spring, air or gas guns, shall be erased. It is evident that such items are not used for “transnational organised crime”.

Other items not dangerous items by themselves, such as projectiles or pellets of shot, shall be excluded from the scope of the Regulation.

It is crucial to focus on the real objective of the UN protocol: the fight against transnational organised crime. Extending controls over non-dangerous items distracts the attention of enforcement authorities from the intended target of the Regulation.



Annex V



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT
DIRECTORATE E - Air Transport
E.5 - Aviation security

Brussels, 29 March 2010
MOVE/E5/ATS D(2010) 58478

Mr Vito Genco
Chairman
European Sport Shooting Forum
Viale dell'Astronomia, 30
IT- 00144 Roma

Subject: Commission Regulation 185/2010

Dear Mr Genco,

I refer to your letter dated 25 March 2010 following up on the discussions we had on 22 March 2010 in Brussels.

As you correctly mention, Commission Regulation 185/2010 lays down detailed measures for the implementation of the common basic standards on aviation security contained in Regulation 300/2008 of the European Parliament and the Council. Regulation 185/2010 was adopted according to the applicable Comitology procedures for such kind of legal acts and after in-depth consultations with Member States in the framework of the Regulatory Committee for Aviation Security and the Stakeholder Advisory Group for Aviation Security including, amongst others, airline and airport representatives.

In view of the fact that the rules for the carriage of firearms and ammunition vary between Member States it was decided to clarify the situation and to explicitly include ammunition consisting of explosive and/or incendiary substances in the list of prohibited articles from hold baggage listed in Attachment 5-B of the Annex to Regulation 185/2010. However, it was also decided to explicitly allow Member States that have national rules permitting the carriage of such articles to allow them subject to complying with the applicable safety rules. Point 5.4.2 of the Annex to Regulation 185/2010 clearly identifies this possibility.

It results from the above that Member States that today already have rules allowing the carriage of certain types of ammunition may continue to do so following the application of this Regulation on 29 April 2010. These Member States must also ensure that the applicable safety rules, in particular those relating to the transport of dangerous goods, are complied with. Such rules allowing the carriage of certain types of ammunition may either be contained in national air safety rules, the National Civil Aviation Security Programme (NASP) or other national rules or legislation on safety and/or security.

Commission européenne, B-1049 Bruxelles / Europese Commissie, B-1049 Brussel - Belgium. Telephone: (32-2) 299 11 11. Office: DM 24 7/118. Telephone: direct line (32-2) 2963060. Fax: (32-2) 2969067.



Due to the fact that all Member States are in the process of adapting their NASP in order to align it with the new EU legislation on aviation security as required by Article 10 of Regulation 300/2008, those Member States which do not yet have any national rules allowing the carriage of certain types of ammunition could include such rules in their updated NASP if they wish to do so.

In view of your concerns, I would therefore recommend you to contact the appropriate authority responsible for aviation security of the Member States concerned. In this context, you may also wish to point out that Regulation 185/2010 does not require Member States to stop allowing the carriage of ammunition but obliges them to ensure that the national rules for such carriage are respected.

I hope this information helps to clarify your concerns and remain at your disposal for any additional information you might require.

Yours sincerely

A. Tsiotras



ESSF Meeting - Brussels, December 2, 2010, 10:00 AM

Draft Executive Summary

Executive Summary of the ESSF minutes

Participants: AECAC, AFEMS, ESFAM, ESC, FESAC, FACE, IEACS.

EU Regulation on Article 10 of the UN Protocol

The ESSF Common Position, dated 9.9.2010, has been circulated at the Council Working Party on Customs Union, end of October 2010, to all national delegates and the Commission. On December 1, there was a first presentation of the draft report by the main rapporteur in INTA and it was circulated to the ESSF participants.

It seems that some of the amendments in the Common Position have been taken on board. Considering the current stage of the legislative process, the ESSF intends to present the following specific comments and observations:

A) The provisions of this Regulation should apply only to firearms, their essential parts and complete ammunition;

B) All mentions of “other” products in the annexe shall be erased. Any item shall be clearly defined in the Annex in order to avoid difficulties for customs officers and trading companies. Any mention of arms and objects out of the scope of the UN Protocol, such as spring, air or gas guns, shall be erased. It is evident that such items are not used for “transnational organised crime”.

Other items not dangerous items by themselves, such as projectiles or pellets of shot, should be excluded from the scope of the Regulation. It is crucial to focus on the real objective of the UN protocol: *the fight against transnational organised crime*. Extending controls over non-dangerous items distracts the attention of enforcement authorities from the intended target of the Regulation;

C) Article 3 §1(f) should be clarified: Firearms manufactured before 1900 and their replicas and all muzzle-loading arms should be excluded from the provisions of this Regulation;

D) The exemption provided for in Article 3 §1(g) concerning shipment as currently proposed by the INTA Rapporteur is absolutely necessary;

E) It is not possible to apply the Regulation in relation to third countries not having signed the UN Firearms Protocol (e.g. the huge US market), because these may not issue relevant import authorization as foreseen under Article 5 §1(a). See our Common Position page 7 on Article 5 §(a);

F) The time period for granting authorizations provided for in Article 5 §4 should be reduced to no more than sixty calendar days. The validity of export authorizations provided for in Article 5 §5 should be extended to not less than twenty-four months;

G) The Simplified Procedures for temporary export, as foreseen in the UN Firearms Protocol, should also apply to evaluation, exhibitions and repair, as there is no evidence or indication that these activities would contribute to illicit manufacturing of and trafficking in firearms. Furthermore, concern was expressed for possible misinterpretation by customs officers, at the EU border, when hunters and sport shooters will be travelling with their guns and have to comply with so-called simplified procedures for export formalities. The European firearms pass should be the main document to facilitate the transit.

H) The period of entering into force in Article 20 of the proposed Regulation is totally unrealistic.

Seal Hunting in Scandinavia



FACE informed participants on the latest developments concerning the EU Seal Trade Regulation. Inuit organizations and companies selling fur and other seal products in Canada, Greenland and Norway have launched an appeal before the EU General Court seeking the annulment of this Regulation. User-friendly groups are very interested in the outcome of this case, as it could potentially serve as an inspiration for similar actions. This matter confirms the propensity of the EU to unjustifiably grasp for more powers in the domain of animal welfare.

Status of Essf Participants

The following members have the status of **observers**: CIP (Permanent International Commission for Firearms Testing) – FITASC (Fédération Internationale de Tir Aux Armes Sportives de Chasse - ISSF (International Sport Shooting Federation) – IPSC (International Practical Shooting Confederation).

Date and place of next meeting

Saturday, March 12th, 2011 at 09.00 at the IWA in Nuremberg



Annex VII

Accounting For 2010

Income / Contributions Received

Spain	2.100
Germany	3.300
Sweden	1.075
Italy	2.100
The Netherlands	1.300
France	3.300
Belgium	1.075
Greece	679
Denmark	0
Ireland	0
Malta	0
Cyprus	250
Finland	700
Austria	1.300
TOTAL	<u>17.179</u>

Prior years surplus	26
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Total Income	<u>17.205</u>
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Contributions made

WFSA 2008	3.000
FACE 2008	4.000
	<u>7.000</u>

Costs

Office material	0
Travel	2.027
Post	0
Bank costs	50
Office and fees	7.650
Translations	0
TOTAL	<u>9.727</u>

Total costs	<u>16.727</u>
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Net Income	<u>477</u>
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Balance per Bank Accounts	<u>477</u>
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1. Of FPS Office and fees, EUR 650 relate to outstanding fees not paid in 2009