



***Report about the AECAC
activity in 2011***

March 2012





AECAC activities in 2011

1. The last AECAC **GENERAL ASSEMBLY** was held in Nuremberg on the **11th of March 2011**. Attached as **Annex I**, minutes of the last 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. AECAC PROMOTION

Brochure: We have just prepared a brochure of AECAC which has been sent to several associations and organisations from all over Europe. Attached as **Annex II** copy of it.

Stand at the IWA Fair: Thanks to the support of the German Association VDB our organisation had the opportunity to have a stand in the IWA. We hope this will help AECAC to get more members and sponsors.

Web page: Our new web page www.aecac.eu, sponsored by GAMO AIRGUNS has been a success. Thanks to it we had several contacts from other Associations and possible Sponsors.

Communications to possible members and sponsors: We have sent more than 200 letters to several associations and possible Sponsors. Enclosed as **Annex III and IV** letters sent to possible new members and sponsors.

4. EUROPEAN FIRE GUNS DIRECTIVE

AECAC is one of the recognised Stakeholders of the European Institutions in all matters concerning the Firearms Directive in this quality we are permanently taking care of any issue or development concerning this norm.

Currently there are several open issues concerning the Directive:

- **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.

In October 2011 the AECAC President had a meeting with the responsible of the Commission concerning the Categories issue and the general application of the Directive.

In December 2011 both, the AECAC President Mr. Gollety and the General Secretary Mr. Fabregat, took part in a meeting with the Commissions responsible and other stakeholders to do a general follow up of all the open questions of the Directive. This meeting has organized by the Commission to prepare its next official report, to be rendered in July 2012.

Many conversations and communications took place during 2011 between AECAC and the Commission officers.

AECAC pointed again its views on the current Directive:

1.- The definition of “parts” and “essential components” included in Article 1 of the Directive is causing misunderstandings. This two terms and its definitions could be unified and simplified.

2.- Categories. The classification of weapons in the Directive shall be considered a technical classification, regardless of the conditions and requirements to each category. Each Member State has already legislate according to the categories of the Directive, providing specific regulations for each category, but mainly keeping the same terminology and structure, modifying the current categories system will cause legislative and administrative difficulties.

3.- Marking. Some member States, as Spain and Sweden, have used the excuse of the transposition of the Directive to implement restrictions to goods coming from other member States through marking requirements.

4.- Deactivation. AECAC required the Commission to prepare clear guidelines on deactivation systems, which balances both the efficiency of the deactivation and the value of the guns as ornamental and collection objects. Currently the strict application of the Directive is negatively affecting the market of ornamental firearms.

AECAC has also prepared a paperwork (**Annex V**) pointing all this issues. Such document was duly sent to the European Commission so it can be taken into account in its next report in July 2012.

5. EUROPEAN REGULATION OF FIRE GUNS IMPORT AND EXPORT

The Regulation was approved by the EU Parliament of Strasburg on 13 October 2011. Attached as **Annex VI** final text.

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, 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 actively opposed to the project. We have addressed several memorandums and communications to the Commission (See Activity reports 2008 and 2009) and had many meetings. In 2010 we even had a **meeting with Mrs. Malmström**.

As the Commission's proposal had to be jointly adopted by the Parliament and the Council according to the ordinary codecision procedure, AECAC acted before all these institutions.

Two European Parliament Committees have been involved in the approval process: the **International Trade Committee (INTA)**, being the reporter the Italian EMP Salvatore Iacolino who prepared the main report, while the **Civil Liberties, Justice and Home Affairs Committee (LIBE)**, being the reporter the French EMP Veronique MATHIEU, prepared an opinion.

The relation with **the EMP Mme. Mathieu** and its technical team has been extremely positive and close. We had the opportunity to collaborate permanently with Mme Mathieu's cabinet.

Our participation in the **European Sport Shooting Forum (ESSF)**, was also crucial to receive the biggest support of all the European Agents (producers, hunters, shooters, collectors) to our main concerns. The coordination role of the ESSF should be underlined, and has shown once again how important this organisation is for AECAC.

We shall also mention the important support of the **French association** during all this process which weight in front of the French authorities enabled us to send some important messages to the Council through the French representative. Enclosed as **Annex VII** is attached copy of the letter sent by Mr. Gollety to the French Home Affairs Minister to point some of the difficulties occurring in the last steps of the process.

Comments to the Text:

Although this Regulation would imply new requirements, the text is not too bad, as it includes some important claims of our sector.

- **Multiple Export authorizations (Art. 2. 12).** Provides the possibility to grant global authorizations for multiple shipments to several **identified** recipients and countries. The provision is not as wide as we demanded (we asked it to be general, not to identified recipients), but is wider than the text proposed by the Commission, as this one accepts multiple export authorization to several final recipients in the same country, with the condition that they are identified.
- **Exports submitted both to the Regulation and the Common Position 2008/944/CFSP (military technology) may** be approved by one only single procedure (Art. 4). Our request was that such "common" approval should be a condition and not an option for member states. Anyhow this draft shall be considered positive.
- **Transit countries (Art. 5):**
 1. Excludes from the transit requirements the "**shipments by sea/air and through ports/airports** of third countries provided that there is not transshipment or change of means of transport".
 2. **Tacit Consent for transit countries (Art. 5.2):** The text keeps the possibility of using a tacit consent for the transit authorization. Unluckily, such possibility is a decision of each Member State. We asked it to be the general rule.



- **Maximum period** to issue authorizations: **60 working days**. 90 under exceptional circumstances.
- **Simplified procedure for temporary exports (Art. 7).**
 1. Excludes the authorizations for hunters and shooters. Enough to provide invitation or other proof. If they leave the customs territory of the EU from a member state other than the one of their residence they shall provide a European Firearms Pass.
 2. Gives the option to member states to establish simplified procedures for temporary export for **evaluation, exhibition and repair** purposes.
- **Included and excluded items (Art. 3 and Annex 1).** One of the latest drafts to be voted by the Parliament included in the scope of the Regulation all sorts of guns and components, not only firearms.
 - Finally it is clear that air guns and “other guns” are excluded from the Regulation.
 - Antique firearms and their replicas (according to national legislation) are not subject to the Regulation.
 - Situation is not so clear for other (not antiques or replicas) muzzle loaded fire guns. AECAC asked that all those should be excluded from the scope of the Regulation, but the final draft does not mention anything about it.

Enclosed as **Annex VIII** “Red Flag” document in which we pointed out some important issues to be treated in the very last hearing of the Parliament. Specially the airguns issue.

- **Term of application.** Most of the articles will be applicable within **18 months** from its publication. Being a Regulation it will be **directly applicable** in all Member States.
- **Negative points:**
 - The text keeps the difference between essential parts and essential components
 - The description of firearm includes objects that “may be converted to expel a shot”. Could cause difficulties with imitations, deactivated guns, etc...
 - The description of ammunition implies that all parts of a cartridge could be object of authorization. In practice it will not be the case as it is limited to the cases where those components are subject to authorization in the Member State.
 - The minimal period of validity of an export authorization is **only 9 months**.

6. LEAD

EFSA (European Food Safety Authority) is an independent source of scientific advice and communication on risks associated with the food chain (food and feed); although its independence, EFSA is in close collaboration with national and EU authorities.

De facto EFSA is a part of a comprehensive programme to improve EU food safety, and it is a European food risk assessor; it produces scientific opinions and advices to provide suggestions for European policies and legislation and to support the European Commission, European Parliament and the EU member states in taking effective and timely risk management decisions.

EFSA adopted a scientific opinion on lead in food in March 2010. The report is not about game meat consumption, but it included an assessment of human exposure to lead by consumption of game meat and it reports that consumer groups with higher exposures levels include game meat consumers.



This analysis recognized higher lead levels in **game meat**, and remarks that specific game meat diet (200 grams per week) may be harmful. However, it does not explain specifically which harms can be suffered by game meat high consumers.

The report also shows comparative data of food lead levels, and game meat has higher lead levels than other foods.

In this way, the analysis says that game meat consumers have higher lead exposure than “regular people”. On the other side, the report says that game meat gives a small percentage contribution to lead exposure.

Soon after the EFSA report, a European deputy queried the Commission about game meat consumption. Salvador Garriga Polledo (PPE), Query E-9592/2010 about the use of lead shot in hunting.

The deputy queries the Commission to answer about the danger represented by lead shot in hunting, considering the irreparable consequences of lead ingestion on human health. The deputy asked, also, about the EU project intent on the regulation of the use (and supposed phase out) of lead shots in hunting.

The Commission, answered that the Commission is in the process of analysing EFSA scientific opinion in detail together with experts from the member states, and this analysis will include an assessment of human exposure to lead by consumption of game meat; however, the work is in a very early stage, so no details can be given.

So far, however, the EU has committed itself to phasing out the use of lead shot in wetlands in a view to protecting birds from poisoning. The European Commission is currently assessing the progresses made in member states, the effectiveness of the measures taken and the possibilities to speed up the process. So far, in any case, 14 member states have banned the use of lead shot in a way or another, either everywhere or in wetlands or for wildfowl hunting.

Our position concerning this issue is that it is better to keep a low profile as far as there is not a available substitute for lead. Starting a debate on this could give very useful arguments against ammunition trading.

Other organisations have a more proactive position. F.i. FACE is for banning lead shot in wetlands, and is open to debate openly about this issue at a European level.

7. FIREARMS MARKING RESTRICTIONS

The Swedish government is intending to require the international import marking for gun transfers coming from other EU countries.

The origin of this is the UNITED NATIONS FIREARMS PROTOCOL (Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, implementing the United Nations Convention against Transnational Organized Crime).

Article 8 b of the UN Protocol provides that Firearms shall include a mark of the import country:

(b) Require appropriate simple marking on each imported firearm, permitting identification of the country of import and, where possible, the year of import



and enabling the competent authorities of that country to trace the firearm, and a unique marking, if the firearm does not bear such a marking.

Anyhow the EU territory shall be considered one only customs territory, even for the purpose of Firearms (see Regulation (EEC) No 2913/92). A transfer of a firearm from an EU country to another EU country shall not be considered an Import, as far as it is a movement within the same customs territory.

For this reason the **EU has signed the UN Firearms Protocol as a signing party.**

The amendment of the EU Firearms Directive (91/477/EEC), took place in 2008. One of the amendments tended to ensure (according to the UN PROTOCOL) that all Fireguns are correctly marked when they are produced in the EU. Article 4 of the Directive provides:

***“For the purpose of identifying and tracing each assembled firearm, Member States shall, at the time of manufacture of each firearm, either:
a) require a unique marking, including the name of the manufacturer, the country or place of manufacture, the serial number and the year of manufacture (if not part of the serial number). This shall be without prejudice to the affixing of the manufacturer’s trademark. For these purposes, the Member States may choose to apply the provisions of the Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms.*”**

The EU has just approved the Import-Export Firearms Regulation (see point 5), implementing the UN Firearms Protocol, but from the external market point of view. This new European Regulation requires that any Firearm entering the Customs territory of the European Union, should be marked according to article 4 of the EU Directive, including the Import Country into the EU. This only applies to the **first import into the EU Customs territory.**

Article 2.14.iii) of the Firearms Import-Export Regulation provides clearly that the marking obligation affects only the ***“first country of import within the European Union”***.

The requirement of the Swedish authorities of marking all firearms imported from other EU Member States is a clear **breach of the free movement of goods principle**, enshrined in Article 34 of the Treaty on the Functioning of the European Union (TFEU): ***“Quantitative restrictions on imports and all measures having equivalent effect shall be prohibited between Member States”***. The intended restriction cannot be justified on the basis of the public policy / public security grounds mentioned in Article 36 TFEU since there is already specific harmonisation at EU level, and thus mutual trust between Member States, through Directive 91/477/EEC as amended by Directive 2008/51/EC.

The Commission, as guardian of the Treaties, must ensure that Member States comply with EU law. If the Swedish authorities persist in applying this legislation, the Commission could launch and **infringement proceeding** for failure to comply with EU law.

AECAC has already sent a rapport to the Commission concerning this issue, and we are studding to present an official complaint against Sweden if the situation persists after the enter into force of the new fire arms export regulation.

8. ESSF (European Sport Shooting Forum)

AECAC participates in the ESSF.



This organisation meet twice this year:

- **Meeting Nuremberg March 2011**
- **Meeting Brussels of December 2011**

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.

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 10th of March 2012.

9. 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

10. ACCOUNTS AND BUDGET

Attached as **Annex IX** accounts for 2011.

Brussels, March 2012



Minutes of the 19th Ordinary General Assembly

At Messezentrum, Nürnberg
Friday, 11th March 2011

Members present:	Mr. Co APPELMAN	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. Ioanis NAFPLIOTIS	Greece
	Mr. Martin KRUSCHITZ	Austria
	Dr. Hermann GERIG	Austria (IWÖ)

1. Presidents Welcome

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

The President also thanked the representatives of GAMO AIRGUNS which were present at the start of the meeting for the sponsorship of the AECAC web page (**www.aecac.eu**).

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.

2. Apologies

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

There were no other apologies for absence.

3. Minutes

The minutes of the 18th Ordinary General Assembly held in Nuremberg on March 2008 were unanimously approved.

4. Review of the year 2010

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

As last year, it was explained that the main battle this past months has been the EU initiative to approve a European Regulation on export and import of fire guns. AECAC was very active on this matter and held several meetings and contacts with members of the EU Commission, with EMP Mme. Veronique Mathieu (Rapporteur of the LIBE Committee), with members of the Council, and even with the European Commissioner Mme. Malstrom.



Other important actions affected the Aviation Regulations, the European Firearms Experts initiatives and the development of the Firearms Directive dossier. For more information see attached document.

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 2011 was approved as follows:

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. New Members and promotion

Several contacts took place with the British Gun Trading Association inviting them to join AECAC. The difficulty is that they not only represent gun traders and gun retailers, but also producers and gross traders. For this reason they are also members of the European producers association IEACS. The conversations with GTA need to take this into account.

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 and Slovakia

The German Association VDB made a very generous offer: next IWA fair, AECAC will have a Stand in the Fair and VDB will cover all the related expenses. All members thanked the VDB for such an initiative which for sure will enable AECAC to get more members and sponsors.

Nuremberg, March, 2012

Annex II



ASSOCIATION EUROPÉENNE DE COMMERCE D'ARMES CIVILES
THE EUROPEAN ASSOCIATION OF THE CIVIL COMMERCE OF WEAPONS

VOTING MEMBERS

Austria: Verband Österreicher Büchsenmacher (Bundesinnung der Metalltechniker)

Belgium: Wapenunie - Union armes

Cyprus: Cyprus Gundealers Association

Denmark: Danske Våbenhandlerere

Finland: Asekauppalaisten Liitto ry

France: Chambre Syndicale Nationale des Armuriers

Germany: VDB - Verband Deutscher Büchsenmacher und Waffenfachhändler

Greece: Pan-Hellenic Association of Handcraft men & Professionals of Hunting Items

Ireland: Irish Gun Dealers and Shooters Association

Italy: ASSOARMIERI - Associazione Commercianti Armi-Munizioni Caccia Pesca Sport

Netherlands: Nederlandse Vereniging voor de Wapenhandel

Spain: ACACE - Asociación de Comerciantes de Armería sus Complementos y Explosivos

Sweden: Sveriges Vapenhandlareförning

NON-VOTING MEMBERS

IWO - Interessengemeinschaft Liberales Waffenrecht in Österreich



A.E.C.A.C.

Association Européenne de Commerce d'Armes Civiles
The European Association of the Civil Commerce of Weapons

**DEFENDING THE GUN
TRADING SECTOR
IN EUROPE**

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Annex III

Reference: Sponsorship

Brussels, November 2011

Dear Sir,

I am writing to you as the President of the ***European Association of the Civil Commerce of Weapons (AECAC)*** and with the belief that our association and your Company could collaborate to build the future of the hunting and civil weapons trading.

Our Association is formed from numerous national associations representing the interests of gun and hunting trading businesses and specialised retailers from all over Europe. Currently the members of our association are the following:

- | | |
|-------------------------|---|
| Austria: | Verband Österreicher Büchsenmacher (Bundesinnung der Metalltechniker) |
| Belgium: | Wapenunie – Union Armes |
| Cyprus: | Cyprus Gundealers Association |
| Denmark: | Danske Vabenhandlerere |
| Finland: | Asekauppiaiden Liitto ry |
| France: | Chambre Syndicale Nationale des Armuriers |
| Germany: | VDB - Verband Deutscher Büchsenmacher und Waffenfachhändler |
| Greece: | Pan-Hellenic Association of Handcraft men & Professionals of Hunting Items |
| Ireland: | Irish Gun Dealers and Shooters Association |
| Italy: | ASSOARMIERI - Associazione Commercianti Armi-Munizioni Caccia Pesca Sport |
| The Netherlands: | Nederlandse Vereniging voor de Wapenhandel |
| Spain: | ACACE - Asociación de Comerciantes de Armería sus Complementos y Explosivos |
| Sweden: | Sveriges Vapenhandlareforening |

Non-voting members:

IWÖ - Interessengemeinschaft Liberales Waffenrecht in Österreich

It would appear that day by day the international influence affecting our business grows and grows. Many non governmental organisations (NGO) are unfairly attacking our sector and numerous anti-hunting lobbies use the European institutions as their propaganda megaphone against us.



We cannot be complacent about these developments, we have to be proactive. We need to be strong not only within our individual national borders but also internationally.

We need our voice to be listened in Europe. We can only play a role if we are united and well organised.

To achieve our objective of an influential position in Europe we also need to be financially strong.

I am writing to you given this challenge, as we need your company to join our project. We need your strength and support to be stronger in Europe.

We would very much appreciate if you could support our association through a Sponsorship.

I do hope that our Association and our drive and commitment to the protection of our sector will be of interest to you. We will present at the Nuremberg Fair with a stand, so we would very much appreciate if you could visit us then.

With my best wishes.

Yves Gollety
President



Annex IV

Brussels, November 2011

Dear Sir,

I am writing to you as the President of the **European Association of the Civil Commerce of Weapons (AECAC)** with the belief that it would be interesting for your Association to join AECAC.

AECAC is a non profit federation, founded in 1992 and formed from numerous national gun trading associations from all over Europe. It was created to ensure the participation of our sector in all the procedures of the European policies in which gun trading is involved.

AECAC is currently the only representative at a European level of the **gun trading retailers**, in this capacity AECAC is being considered as a very reputable **stakeholder before all European Institutions**.

Currently the members of our association are the following:

- | | |
|-------------------------|--|
| Austria: | Verband Österreicher Büchsenmacher (Bundesinnung der Metalltechniker) |
| Belgium: | Wapenunie – Union Armes |
| Cyprus: | Cyprus Gundealers Association |
| Denmark: | Danske Vabenhandlerere |
| Finland: | Asekauppiaiden Liitto ry |
| France: | Chambre Syndicale Nationale des Armuriers |
| Germany: | VDB - Verband Deutscher Büchsenmacher und
Waffenfachhändler |
| Greece: | Pan-Hellenic Association of Handcraft men & Professionals
of Hunting Items |
| Ireland: | Irish Gun Dealers and Shooters Association |
| Italy: | ASSOARMIERI - Associazione Commerciali Armi-
Munizioni Caccia Pesca Sport |
| The Netherlands: | Nederlandse Vereniging voor de Wapenhandel |
| Spain: | ACACE - Asociación de Comerciantes de Armería sus
Complementos y Explosivos |
| Sweden: | Sveriges Vapenhandlareforening |

Non-voting member:

IWÖ - Interessengemeinschaft Liberales Waffenrecht in Österreich



Our main targets are:

- Defend the interests of the gun trading sector at a European Level
- Be the voice of the small and medium-sized enterprises before the European Institutions
- Represent the Gun Trading Retailers in all the international trading and sport organisations
- Lower existing barriers in the civil gun trading sector
- Support the free market; enhance the efficiency and competitiveness of the European companies

We are very proactive before the European institutions. You can see the amount of work that it is done in our web page: [**www.aecac.eu**](http://www.aecac.eu)

To achieve our objectives we need to have a wide representation of the European traders and small and medium business from our sector. It is essential that we have only one powerful voice in Brussels.

I am writing to you given this challenge, as we need your national association to join our project. We need your strength and support to be stronger in Europe.

I do hope that our Association and our drive and commitment to the protection of our sector will be of interest to you. We will present at the Nuremberg Fair with a stand, so we would very much appreciate if you could visit us then.

With my best wishes.

Yves Gollety
President



**EUROPEAN COMMISSION
Enterprise and Industry Directorate-General
Mr. Georges Martins**

Brussels, 30th of December 2011

Dear Mr. Martins,

Following the meeting that took place in Brussels on the 12th of December we would like to point some of the issues concerning the current Firearms Directive.

I.- DEFINITION OF “PARTS” AND “ESSENTIAL COMPONENTS”

Article 1 of the new Firearms Directive includes again the definition of “parts” and “essential components” including several elements in both terms and even providing that “parts” are any elements “essential to its operation”.

From the technical and legal aspects, “parts” and “components” are synonymous. Thus the word “components” should in general be removed from the text, because it is useless and conducive to inadequate interpretations. This is the result of an error produced during the coordination of the text of Directive 2008/51/CE, due 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.

At the same time it would be necessary to reduce the field of application of the definitions. The current definitions might cause to include as parts or components, subject to the regulations of the Directive, any metal bits that are part of the closure 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 firearms.

It therefore seems quite clear that it is absolutely necessary to unify and reduce the field of the current definitions under Article 1.1a and 1.1b.

II.- CATEGORIES OF WEAPONS

The classification of weapons in the Directive shall be considered a technical classification, regardless of the conditions and requirements to each category. Each Member State has legislate according to the categories of the Directive, providing specific regulations for each category, but mainly keeping the same terminology and structure, modifying the current categories system will cause legislative and administrative difficulties in all Member States.

Also, the classification of weapons and the entire minimal framework provided by the Directive has had very good results these years. We consider that the change of categories system is neither necessary nor possible. This was also the opinion of the Commission in the last procedure of modification of the Directive, which did not consider any change in the system. We do not see any reason to change this position now.



Many countries use the category C and some of them the category D. The alteration of the actual system could cause the obligation of countries like France, Great Britain, Austria, Belgium, Germany, Lithuania or Spain to change the regulation of firearms or ammunition.

State regulations provide for different classification schemes to avoid undue detention and acquisition procedures in case of less dangerous weapons. It is appropriated to maintain these simplified systems to optimize the resources and focus the energy of the authorities on the control of most dangerous goods.

Considering that there is no common standard regime in all countries of the European Union of the notion of the acquirement Authorization, the change of the current system will penalize countries with very strict regulations for obtaining authorizations of category B weapons.

In addition, antique weapons or collections of pre-1870 models which replicas are used to practice "Ancient Weapons" sport shooting are currently in Category C or D in many countries of the European Union. Their classification as a Category B would be useless in terms of security, and, dramatic in terms of sports and economics.

A very important question concerns the ammunition: Ammunition follows the regime of arms. Currently, most countries apply to ammunition of small game (shotgun ammunition) the Category D regulation. The disappearance of this category will cause the obligation to change most national legislation in the matter of ammunition, a big technical difficulties and expenses of resort of the authorities.

How can we record sales of over one billion of hunting and sport shooting cartridges, and in which interest? This measure would not be realistic as it would add nothing to the level of security. Instead, it would create a big storage - due to more important purchases -, which will be detrimental to civil security (beyond the authorization of detention of dangerous goods and in the matter of expedited robbery.)

In case, that the Commission would propose a system of 3 categories, it would be essential to rule out this scheme the shotgun cartridges and sport shooting.

III.- GUN MARKING

Some member States, as Spain and Sweden, have used the excuse of the transposition of the Directive to implement restrictions to goods coming from other member States.

The main problem is caused by a wrong interpretation of the gun marking requirements.

F.i. the Swedish government is intending to require the international import marking for gun transfers coming from other EU countries.

The origin of this is the UNITED NATIONS FIREARMS PROTOCOL (Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime).

Article 8 b of the UN Protocol provides that Firearms shall include a mark of the import country:



(b) Require appropriate simple marking on each imported firearm, permitting identification of the country of import and, where possible, the year of import and enabling the competent authorities of that country to trace the firearm, and a unique marking, if the firearm does not bear such a marking.

The EU territory shall be considered one only customs territory, even for the purpose of Firearms (see Regulation (EEC) No 2913/92). A transfer of a firearm from an EU country to another EU country shall not be considered an Import, as far as it is a movement within the same customs territory.

To transpose such UN Protocol, the EU shall amend or legislate in two fields: internal market and import-export.

The amendment of the EU Firearms Directive (91/477/EEC), took place in 2008. One of the amendments tended to ensure (according to the UN PROTOCOL) that all Firearms are correctly marked when they are produced in the EU (Article 4 of the Directive).

Currently the EU is on the process of approving an Import-Export Firearms Regulation, also tending to implement the UN Firearms Protocol, but from the external market point of view. This new European Regulation will require that any Firearm entering the Customs territory of the European Union, will be market according to article 4 of the EU Directive, and also includes the Import Country into the EU. This should only apply to the first import into the EU Customs territory.

Article 2.14.iii) of such Firearms Import-Export Regulation - currently in process of approval - provides clearly that the marking obligation affects only the ***“first country of import within the European Union”***.

The intention of Member States authorities to require the marking of all firearms imported from other EU Member States is a clear **breach of the free movement of goods principle**, enshrined in Article 34 of the Treaty on the Functioning of the European Union (TFEU): ***“Quantitative restrictions on imports and all measures having equivalent effect shall be prohibited between Member States”***.

The intended restriction cannot be justified on the basis of the public policy / public security grounds mentioned in Article 36 TFEU since there is already specific harmonization at EU level, and thus mutual trust between Member States, through Directive 91/477/EEC as amended by Directive 2008/51/EC.

IV.- DEACTIVATION

Annex I of the Directive provides that for the purpose of deactivation **“all essential parts”** of a Firearm will have to be destroyed and **“incapable of removal”**.

This is the result of the problems in many countries caused by reactivated guns. AECAC believes it is good to unify and enforce the control over all European deactivation systems, although the interpretation of **“incapable of removal”** could cause problems if it is applied strictly.

It is possible to deactivate firearms without causing its complete destruction or the total loss of its value.



We believe it is urgent that the Commission prepares clear guidelines on deactivation systems, which balances both the efficiency of the deactivation and the value of the guns as ornamental and collection objects.

Sincerely yours,

Víctor Fabregat



Annex VI

5.10.2011

A7-0157/28

Amendment 28
Salvatore Iacolino
on behalf of the Committee on International Trade

Report
Salvatore Iacolino

A7-0157/2011

Implementation of Article 10 of the United Nations Firearms Protocol and establishing export authorisation, import and transit measures for firearms, their parts and components and ammunition

COM(2010)0273 – C7-0138/2010 – 2010/0147(COD)

Proposal for a regulation

–

AMENDMENTS BY PARLIAMENT¹

to the Commission proposal

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

implementing Article 10 of the United Nations' Firearms Protocol and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure²

Whereas:

- (1) In accordance with Council Decision 2001/748/EC of 16 October 2001³ concerning the signing on behalf of the European Community⁴ of the United Nations Protocol against the

¹ Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ■ .

² Position of the European Parliament of ... October 2011 (not yet published in the Official Journal) and Council Decision of ...

³ OJ L 280, 24.10.2001, p. 5

⁴ The European Union replaced and succeeded the European Community on 1 December 2009, date of entry into force of the Treaty of Lisbon, pursuant to Article 1, third paragraph thereof (OJ C 115, 9.5.2008, p. 13).



illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against transnational Organised Crime, the Commission signed that Protocol (hereinafter referred to as the 'UN Firearms Protocol') on behalf of the Community on 16 January 2002.

- (2) The UN Firearms Protocol - the purpose of which is to promote, facilitate and strengthen cooperation among Parties in order to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition - entered into force on 3 July 2005.
- (3) In order to facilitate the tracing of firearms and efficiently combat illicit trafficking in firearms, their parts and ammunition, it is necessary to improve the exchange of information between Member States, in particular through the better use of existing communication channels.
- (4) Personal data must be processed in accordance with the rules laid down in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the movement of such data⁵ and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data⁶.
- (5) In its Communication of 18 July 2005 on measures to ensure greater security in explosives, detonators, bomb-making equipment and firearms, the Commission announced its intention to implement Article 10 of the UN Firearms Protocol as part of the measures which need to be taken in order for the Union to be in a position to conclude that Protocol. Some of those measures have been implemented by Directive 2008/51/EC⁷ of the European Parliament and of the Council of 21 May 2008 amending Council Directive 91/477/EEC⁸ on control of the acquisition and possession of weapons.
- (6) The UN Firearms Protocol requires parties to put in place or improve administrative procedures or systems to exercise effective control over the manufacturing, marking, import and export of firearms.
- (7) Compliance with the UN Firearms Protocol also requires that criminal offences be established for illicit manufacture or trafficking in firearms their parts and components or ammunition and that measures be taken to enable the confiscation of items so manufactured or trafficked.

⁵OJ L 281, 23.11.1995, p. 31.

⁶ OJ L 8, 12.1.2001, p. 1

⁷ OJ L 179, 8.7.2008, p. 5

⁸ OJ L 256, 13.9.1991, p. 51



- (8) This Regulation should not apply to firearms, their parts and essential components or ammunition that are intended specifically for military purposes. The need to meet the requirements of Article 10 of the UN Firearms Protocol should be adapted to provide for simplified procedures for firearms for civilian use. Consequently, some facilitation with regard to authorisation for multiple shipments, transit measures and temporary exports for lawful purposes should be ensured.
- (9) This Regulation does not affect the application of Article 346 of the Treaty on the Functioning of the European Union, which refers to the essential interests of the security of the Member States, nor has this Regulation any impact on Directive 2009/43/EC of the European Parliament and of the Council simplifying terms and conditions of transfers of defence-related products within the Community⁹, or on Directive 91/477/EEC. Moreover, the UN Firearms Protocol and consequently this Regulation do not apply to State-to-State transactions or to State transfers in cases where the application of the Protocol would prejudice the right of a Party to take action in the interest of national security consistent with the Charter of the United Nations.
- (10) Directive 91/477/EEC addresses transfers of firearms for civilian use within the territory of the Union while this Regulation focuses on measures in respect of the exportation from the customs territory of the Union to or through third countries.
- (11) Firearms, their parts and essential components and ammunition when imported from third countries are subject to Union law and, in particular, to the requirements of Directive 91/477/EEC.
- (12) Consistency should be ensured with regard to record-keeping provisions in force under Union legislation.
- (13) In order to ensure that this Regulation is properly applied, each Member State should take measures giving the competent authorities appropriate powers.
- (14) In order to maintain the list of firearms, their parts and essential components and ammunition for which an authorisation is required under this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of aligning Annex I to this Regulation to Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff¹⁰ and to Annex I to Directive 91/477/EEC. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (15) The Union has adopted a body of customs rules, contained in Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code¹¹ and its

⁹ OJ L 146, 10.6.2009, p. 1.

¹⁰ OJ L 256, 7.9.1987, p. 1.

¹¹ OJ L 302, 19.10.1992, p. 1.



implementing provisions as laid down in Commission Regulation (EEC) No 2454/93¹². Consideration should also be given to Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (Modernised Customs Code)¹³ whose provisions are applicable in different phases according to Article 188 thereof. Nothing in this Regulation constrains any powers under and pursuant to the Community Customs Code and its implementing provisions.

- (16) Member States should lay down rules on penalties applicable to infringements of this Regulation and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.
- (17) This Regulation is without prejudice to the Union regime for the control of exports, transfer, brokering and transit of dual-use items established by Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items¹⁴.
- (17a) This Regulation is consistent with the relevant considerations expressed on firearms, parts, essential components and ammunition for military use, security strategies, illicit trafficking of small arms and light weapons and exports of military technology, including Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment¹⁵.
- (18) The Commission and the Member States should inform each other of the measures taken under this Regulation and of other relevant information at their disposal in connection with this Regulation.
- (18a) This Regulation does not prevent the Member States from applying their constitutional rules relating to public access to official documents, taking into account Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents;¹⁶

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT, DEFINITIONS AND SCOPE

Article 1

¹² OJ L 253, 11.10.1993, p. 1.

¹³ OJ L 145, 4.6.2008, p. 1.

¹⁴ OJ L 134, 29.5.2009, p. 1.

¹⁵ OJ L 335, 13.12.2008, p. 99.

¹⁶ OJ L 145, 31.5.2001, p. 43.



This Regulation lays down rules governing export authorisation, 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 Organized Crime (the 'UN Firearms Protocol').

Article 2

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 as referred to in Annex I; 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 soconverted;
- (2) 'parts ' means any element or replacement element as referred to in Annex I 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
- (2a) 'essential components' means the breech-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;
- (3) 'ammunition' means the complete round or the components thereof, including cartridge cases, primers, propellant powder, bullets or projectiles that are used in a firearm, as referred to in Annex I, provided that those components are themselves subject to authorisation in the relevant Member State;
- (4) 'deactivated firearms' means objects otherwise corresponding to the definition of a firearm which have been rendered permanently unfit for use by deactivation, ensuring that all essential parts of the firearm have been rendered permanently inoperable and incapable of removal, replacement or modification that would permit the firearm to be reactivated in any way. Member States shall make arrangements for these deactivation measures to be verified by a competent authority. Member States shall, in the context of that verification, provide for the issuance of a certificate or record attesting to the deactivation of the firearm or the position of a clearly visible mark to that effect on the firearm;
- (5) 'export' means:
 - a an export procedure within the meaning of Article 161 of Regulation (EEC) No 913/92;
 - b a re-export within the meaning of Article 182 of Regulation (EEC) No 2913/92 but not including goods moving under the external transit procedure, as referred to in Article 91 of that Regulation where no re-export formalities as referred to in Article 182(2) thereof have been fulfilled;
- (5a) 'person' means a natural person, a legal person and, where the possibility is provided for under the rules in force, an association of persons recognised as having the capacity to perform legal acts but lacking the legal status of a legal person;
- (6) 'exporter' means any person, established in the Union, who makes or on whose behalf an export declaration is made, that is to say the person who, at the time when the declaration is accepted, holds the contract with the consignee in the third country and has the power for



determining the sending of the item out of the customs territory of the Union. If no export contract has been concluded or if the holder of the contract does not act on its own behalf, the exporter shall mean the person who has the power for determining the sending of the item out of the customs territory of the Union; Where the benefit of a right to dispose of firearms, their parts and essential components or ammunition accrues to a person established outside the Union pursuant to the contract on which the export is based, the exporter shall be considered to be the contracting party established in the Union;

- (7) 'customs territory of the Union' means the territory within the meaning of Article 3 of Regulation (EEC) No 2913/92;
- (8) 'export declaration' means the act whereby a person indicates in the prescribed form and manner his intention to place firearms, their parts and essential components, and ammunition under an export procedure;
- (9) 'temporary export' means the movement of firearms leaving the customs territory of the Union and intended for re-importation within a period not exceeding 24 months;
- (10) 'transshipment' means transit involving the physical operation of unloading goods from the importing means of transport followed by reloading for the purpose of reexportation, generally onto another means of transport;
- (11) 'transit' means the operation of transport of goods leaving the customs territory of the Union and passing through the territory of one or more third countries with final destination in another third country;
- (12) 'export authorisation' means:
 - (a) a single authorisation or a licence granted to one specific exporter for one shipment of one or more firearms, their parts and essential components and ammunition to one identified final recipient or consignee in a third country and/or;
 - (b) a multiple authorisation or a licence granted to one specific exporter for multiple shipments of one or more firearms, their parts and essential components and ammunition to one identified final recipient or consignee in one third country and/or;
 - (c) a global authorisation or a licence granted to one specific exporter for multiple shipments of one or more firearms, their parts and essential components and ammunition to several identified final recipients or consignees in one or several third countries;
- (13)
- (14) 'illicit trafficking' means the import, export, sale, delivery, movement or transfer of firearms, their parts and essential components or ammunition from or across the territory of one Member State to that of a third country, if any of the following applies:
 - (a) the Member State concerned does not authorise it in accordance with the terms of this Regulation;
 - (b) the firearms are not marked in accordance with Article 4(1) and (2) of Directive 91/477/EEC;



- (c) the imported firearms are not marked at the time of importation at least with a simple marking permitting identification of the first country of import within the European Union, or, where the firearm does not bear such a marking, a unique marking identifying the imported firearms;
- (15) 'tracing' means the systematic tracking of firearms and, where possible, their parts and essential components and ammunition from manufacturer to purchaser for the purpose of assisting the competent authorities of Member States in detecting, investigating and analysing illicit manufacturing and trafficking.

Article 3

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, or 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 recognised as such for the purposes of this Regulation 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.

2. This Regulation is without prejudice to Regulation (EEC) No 2913/92 (Community Customs Code) Regulation (EEC) No 2454/93 (implementing provisions of the Community Customs Code), Regulation (EC) No 450/2008 (Modernised Customs Code), and to the regime for the control of exports, transfer, brokering and transit of dual-use items established by Regulation (EC) No 428/2009 (Dual Use Regulation).

CHAPTER II

EXPORT AUTHORISATION, PROCEDURES AND CONTROLS AND IMPORT AND TRANSIT MEASURES

Article 4

An export authorisation established in accordance with the form set out in Annex II shall be required for the export of firearms, their parts and essential components and ammunition listed in Annex I. Such authorisation shall be granted by the competent authorities of the Member State where the exporter is established and shall be issued in writing or by electronic means. Where the export of firearms, their parts, essential components and ammunition requires an export authorisation pursuant to this Regulation and it is also subject to export authorisation



requirements in accordance with Common Position 2008/944/CFSP, Member States may use a single procedure to carry out the obligations imposed on them by this Regulation and by that Common Position.

If the firearms, their parts and essential components will be located in one or more Member States other than the one where the application has been made, that fact shall be indicated on the application. The competent authorities of the Member State to which the application for authorisation has been made shall immediately consult the competent authorities of the Member State or States in question and provide the relevant information. The Member State or States consulted shall make known within 10 working days any objections it or they may have to the granting of such an authorisation, which shall bind the Member State in which the application has been made.

Article 4a

The Commission shall be empowered to adopt delegated acts in accordance with Article 4b to amend Annex I on the basis of the amendments to Annex I to Regulation (EEC) No 2658/87 and on the basis of Annex I to Directive 91/477/EEC.

Article 4b

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 4a shall be conferred on the commission for an indeterminate period of time.
3. The delegation of power referred to in Article 4a may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 4a shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 5

1. Before issuing an export authorisation for firearms, their parts and essential components and ammunition, the Member State concerned shall verify that:
 - (a) the importing third country has authorised the relevant import 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. This provision does not apply:
 - to shipments by sea or air and through ports or airports of third countries provided that there is no transshipment or change of means of transport;



- in the case of temporary exports for verifiable lawful purposes, which include hunting, sport shooting, evaluation, exhibitions without sale and repair.
2. Member States may decide that, if no objections to the transit are received within 20 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 to the transit.
 3. The exporter shall supply the competent authority of the Member State responsible for issuing the export authorisation with the necessary documents proving that the importing third country has authorised the import and that the transit third country had no objection to the transit .
 4. Member States shall process requests for export authorisation within a period of time, to be determined by national law or practice which shall not exceed 60 working days, from the date on which all the required information has been provided to the competent authorities. Under exceptional circumstances and for duly justified reasons, the period in this paragraph may be extended to 90 working days.
 5. The period of validity of an export authorisation shall not exceed the period of validity of the import authorisation. Where the import authorisation does not specify a period of validity, except under exceptional circumstances and for duly justified reasons, the period of validity of an export authorisation shall be not be less than nine months.
 6. Member States may decide to make use of electronic documents for the purpose of processing the requests for authorisation.

Article 6

1. For the purpose of tracing, the export authorisation and the import licence or import authorisation issued by the importing third country and accompanying documentation shall together contain information that includes:
 - (a) the dates of issue and expiry of authorisations;
 - (b) the place of issue of authorisations;
 - (c) the country of export;
 - (d) the country of import;
 - (e) whenever applicable, the third country or countries of transit;
 - (f) the consignee;
 - (g) the final recipient, if known at the time of the shipment;
 - (h) particulars enabling the identification of the firearms, their parts and essential components and ammunition, and the quantity thereof including at the latest prior to the shipment the marking applied to the firearms.



2. The information referred to in paragraph 1, if contained in the import licence or import authorisation, shall be provided by the exporter in advance to the third countries of transit, at the latest prior to the shipment.

Article 7

1. Simplified procedures for the temporary export or the re-export of firearms, their parts, essential components and ammunition shall apply as follows:

(a) No export authorisation shall be required for

the temporary export by hunters or sport shooters as part of their accompanied personal effects, during a journey to a third country, provided that they substantiate to the competent authorities the reasons for the journey, in particular by producing an invitation or other proof of the hunting or sport shooting activities in the third country of destination, of:

- one or more firearms;
- their essential components, if marked, as well as parts;
- their related ammunition, limited to a maximum of 800 rounds for hunters and a maximum of 1200 rounds for sport shooters.

(ii) the re-export by hunters or sport shooters as part of their accompanied personal effects following temporary admission for hunting or sport shooting activities, provided that the firearms remain the property of a person established outside the customs territory of the Union and the firearms are re-exported to that person.

(b) When leaving the customs territory of the Union through Member State other than the Member State of their residence hunters and sport shooters shall produce to the competent authorities a European Firearms Pass as provided for in Articles 1 and 12 of Directive 91/477/EEC. In the case of travel by air, the European Firearms Pass shall be produced to the competent authorities where the relevant items are handed over to the airline for transport out of the customs territory of the Union. When leaving the customs territory of the Union through the Member State of their residence, hunters and sport shooters may instead of a European Firearms Pass choose to produce another document considered valid for this purpose by the competent authorities of that Member State .

(c) The competent authorities of a Member State shall for a period not exceeding 10 days, suspend the process of export or, if necessary, otherwise prevent firearms, their parts and essential components or ammunition from leaving the customs territory of the Union through that Member State, where they have grounds for suspicion that the reasons adduced by hunters or sport shooters are not in conformity with the relevant considerations and the obligations laid down in Article 8. In exceptional circumstances and for duly justified reasons, the period referred to in this point may be extended to 30 days.

2. Member States shall in accordance with their national law establish simplified procedures for:

(a) the re-export of firearms following temporary admission for evaluation or exhibition without sale, or inward processing for repair, provided that the firearms remain the property of a person established outside the customs territory of the Union and the firearms are re-exported to that person;



- (b) the re-export of firearms, their parts and essential components and ammunition in the event that they are held in temporary storage from the moment they enter the customs territory of the Union until their exit;
- (c) the temporary export of firearms for the purpose of evaluation and repair and exhibition without sale, provided that the exporter substantiates the lawful possession of these firearms and exports them under the outward processing or temporary exportation customs procedures.

Article 8

1. In deciding whether to grant an export authorisation under this Regulation, Member States shall take into account all relevant considerations including, where appropriate:

- (a) their obligations and commitments as members of the relevant international export control arrangements, or under relevant international treaties;
- (b)
- (c) considerations of national foreign and security policy, including those covered by Common Position 2008/944/CFSP;
- (d) considerations as to intended end use, consignee, identified final recipient and the risk of diversion.

2. In addition to the criteria set out in paragraph 1, when assessing an application for an 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. In deciding whether to grant an export authorisation under this Regulation, Member States shall respect their obligations in respect of 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 as regards arms embargoes.

Article 9

1. Member States shall:

- (a) refuse to grant an export authorisation if the person applying for it has a criminal record concerning conduct constituting an offence listed in Article 2(2) of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States¹⁷ or concerning any other conduct provided that it constituted an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty;
- (b) annul, suspend, modify or revoke an export authorisation if the conditions for granting it were not met or are no longer met.

This paragraph is without prejudice to stricter rules under national legislation.

¹⁷ Council Framework decision 2002/584/JHA of 13 June 2002 in European arrest warrant and the surrender procedures between member states (OJ L 190, 18.07.2002, p.1)



2. Where Member States refuse, annul, suspend, modify or revoke an export authorisation they shall notify the competent authorities of the other Member States thereof and share the relevant information with them. Where the competent authorities of a Member State have suspended an export authorisation, their final assessment shall be communicated to the Member States at the end of the period of suspension.

3. Before the competent authorities of a Member State grant an export authorisation under this Regulation, they shall take into account all refusals under this Regulation of which they have been notified, in order to ascertain whether an authorisation has been refused by the competent authorities of another Member State for an essentially identical transaction (meaning an item with essentially identical parameters or technical characteristics and in respect of the same importer or consignee). They may first consult the competent authorities of the Member State or Member States which issued refusals, annulments, suspensions, modifications or revocations under paragraphs 1 and 2. If following such consultation the competent authorities of the Member State decide to grant an authorisation they shall notify the competent authorities of the other Member States, providing all relevant information to explain the decision.

4. All information shared in accordance with the provisions of this Article shall be in compliance with the provisions of Article 17(2) concerning its confidentiality

Article 10

In accordance with their national law or practice in force, Member States shall keep – for not less than 20 years – all information relating to firearms and, where appropriate and feasible, their parts and essential components and ammunition, which is necessary to trace and identify those firearms, their parts and essential components and ammunition, and to prevent and detect illicit trafficking therein. That information shall include the place, date of issue and expiry of the export authorisation; the country of export; the country of import; where applicable, the third country of transit; the consignee; the final recipient if known at the time of export; and the description and quantity of the items, including any markings applied to them.

This Article shall not apply to exports as referred to in Article 7.

Article 11

1. Member States shall, in case of suspicion, request the importing third country to confirm receipt of the dispatched shipment of firearms, their parts and essential components or ammunition.

2. Upon request, Member States shall inform the exporting third country of the receipt within the customs territory of the Union of the dispatched shipment of firearms, their parts and essential components or ammunition. Such confirmation shall be ensured in principle by producing the relevant customs importation documents.

The first subparagraph shall apply only if the requesting third country of export was already a State Party to the UN Firearms Protocol at the time of the exportation to the Union.

3. Member States shall comply with paragraphs 1 and 2 in accordance with their national laws or practice in force. In particular, with regard to exports , the competent authority of the Member State may decide either to address the exporter or to contact the importing third country directly.

Article 12



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

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

Article 13

In order to ensure that this Regulation is properly applied, each Member State shall take necessary and proportionate measures to enable its competent authorities to:

- (a) gather information on any order or transaction involving firearms, their parts and essential components and ammunition; and
- (b) establish that the export control measures are being properly applied, which may, in particular, include the power to enter the premises of persons with an interest in an export transaction.

Article 14

Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that its provisions are implemented. The penalties provided for must be effective, proportionate and dissuasive.

CHAPTER III

CUSTOMS FORMALITIES

Article 15

1. When completing customs formalities for the export of firearms, their parts and essential components or ammunition at the customs office of export , the exporter shall furnish proof that any necessary export authorisation has been obtained.
2. The exporter may be required to provide a translation into an official language of the Member State where the export declaration is presented of any documents furnished as proof.
3. Without prejudice to any powers conferred on them under Regulation (EEC) No 2913/92, Member States shall for a period not exceeding 10 days suspend the process of export from their territory or, if necessary, otherwise prevent firearms, their parts and essential components or ammunition which are covered by a valid export authorisation from leaving the customs territory of the Union through their territory, where they have grounds for suspicion that:
 - (a) relevant information was not taken into account when the authorisation was granted, or
 - (b) circumstances have materially changed since the grant of the authorisation.

In exceptional circumstances and for duly substantiated reasons, the period in this paragraph may be extended to 30 days.

4. Within the period referred to in paragraph 3, Member State shall either release the firearms, their parts and essential components or ammunition or take action pursuant to Article 9(1)(b).

Article 16



1. Member States may provide that customs formalities for the export of firearms, their parts and essential components or ammunition can be completed only at customs offices empowered to that end.

2. Member States availing themselves of paragraph 1 shall inform the Commission of the duly empowered customs offices or of subsequent changes thereto. The Commission shall publish and update that information on a yearly basis in the C series of the Official Journal of the European Union.

CHAPTER IV

ADMINISTRATIVE COOPERATION

Article 17

1. Member States, in cooperation with the Commission and according to Article 19(2), shall take all appropriate measures to establish direct cooperation and exchange of information between competent authorities with a view to enhancing the efficiency of the measures established by this Regulation. Such information may include:

- (a) details of exporters whose application for an authorisation is refused or of exporters who are the subject of decisions taken by Member States pursuant to Article 9;
- (b) data on consignees or other actors involved in suspicious activities, and, where available, routes taken.

2. Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters¹⁸, and in particular the provisions thereof as to the confidentiality of information, shall apply *mutatis mutandis* to measures under this Article, without prejudice to Article 18 of this Regulation.

CHAPTER V

GENERAL AND FINAL PROVISIONS

Article 18

1. A Firearms Exports Coordination Group chaired by a representative of the Commission shall be set up. Each Member State shall appoint a representative to it.

The Firearms Exports Coordination Group shall examine any question concerning the application of this Regulation which may be raised either by the Chair or by a representative of a Member State. It shall be bound by the confidentiality rules of Regulation (EC) No 515/97.

2. The Chair of the Firearms Exports Coordination Group or the Coordination Group shall, whenever necessary, consult any relevant stakeholders concerned by this Regulation.

Article 19

¹⁸ OJ L 82, 22.3.1997, p. 1.



1. Each Member State shall inform the Commission of the laws, regulations and administrative provisions adopted in implementation of this Regulation, including the measures referred to in Article 14.
2. By the date of entry into force of this Regulation, each Member State shall keep the other Member States and the Commission informed of the national authorities competent for implementing Articles 5, 7, 9 and 15. Based on the information supplied by the Member States, the Commission shall publish and update a list of those authorities on a yearly basis in the C series of the Official Journal of the European Union.
3. Five years after the entry into force of this Regulation and following that period, upon request of the Firearms Exports Coordination Group and in any event every 10 years the Commission shall review the implementation of this Regulation and present a report to the European Parliament and the Council on its application, which may include proposals for its amendment. Member States shall provide the Commission with all appropriate information for the preparation of the report, including the use of the single procedure as referred to in Article 4(2).

Article 20

This Regulation shall enter into force ...¹⁹

This Regulation shall apply from ...²⁰

However, paragraphs 1 and 2 of Article 11 shall apply from the thirtieth day after the date on which the UN Firearms Protocol enters into force in the European Union, following its conclusion pursuant to Article 218 of the Treaty on the Functioning of the European Union²¹

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ,

For the European Parliament
The President

For the Council
The President

ANNEX I²²

List of firearms, their parts and essential components and ammunition

¹⁹ OJ: Please insert a date - the 20th day following that of publication of this Regulation

²⁰ OJ: Please insert a date 18 months after the date of publication of this Regulation.

²¹ OJ: Please insert a date 18 months after the date of publication of this Regulation

²² Based on the Combined Nomenclature of goods as laid down in Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff.



□

	DESCRIPTION	CN CODE ²³
1	1 Semi-automatic or repeating short firearms	ex 9302 00 00
2	Single-shot short firearms with centre-fire percussion	ex 9302 00 00
3	Single-shot short firearms with rim fire percussion whose overall length is less than 28 cm	ex 9302 00 00
4	Semi-automatic long firearms whose magazine and chamber can together hold more than three rounds	ex 9303 20 10 ex 9303 20 95 ex 9303 30 00 ex 9303 90 00
5	Semi-automatic long firearms whose magazine and chamber cannot together hold more than three rounds, where the loading device is removable or where it is not certain that the weapon cannot be converted, with ordinary tools, into a weapon whose magazine and chamber can together hold more than three rounds.	ex 9303 20 10 ex 9303 20 95 ex 9303 30 00 ex 9303 90 00
6	Repeating and semi-automatic long firearms with smooth-bore barrels not exceeding 60 cm in length	ex 9303 20 10 ex 9303 20 95
7	Semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms	ex 9302 00 00 ex 9303 20 10 ex 9303 20 95 ex 9303 30 00 ex 9303 90 00
8	Repeating long firearms other than those listed in point 6	ex 9303 20 95 ex 9303 30 00 ex 9303 90 00
9	Long firearms with single-shot rifled barrels	ex 9303 30 00 ex 9303 90 00
10	Semi-automatic long firearms other than those in points 4 to 7	ex 9303 90 00
11	Single-shot short firearms with rim fire percussion whose overall length is not less than 28 cm	ex 9302 00 00
12	Single-shot long firearms with smooth-bore barrels	12 9303 10 00 ex 9303 20 10 ex 9303 20 95

²³ When an "ex" code is indicated, the scope is to be determined by application of the CN code and corresponding description taken together.



13	Parts 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. Any essential component of such firearms: The breechclosing 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	ex 9305 10 00 ex 9305 21 00 ex 9305 29 00 ex 9305 99 00
14	Ammunition : 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 authorisation in the relevant Member State	ex 3601 00 00 ex 3603 00 90 ex 9306 21 00 ex 9306 29 00 ex 9306 30 10 ex 9306 30 90 ex 9306 90 90
15	Collections and collectors' pieces of historical interest Antiques of an age exceeding 100 years	ex 9705 00 00 ex 9706 00 00

For the purposes of this Annex:

- (a) 'short firearm' means a firearm with a barrel not exceeding 30 centimetres or whose overall length does not exceed 60 centimetres;
- (b) 'long firearm' means any firearm other than a short firearm;
- (c) 'automatic firearm' means a firearm which reloads automatically each time a round is fired and can fire more than one round with one pull on the trigger;
- (d) 'semi-automatic firearm' means a firearm which reloads automatically each time a round is fired and can fire only one round with one pull on the trigger;
- (e) 'repeating firearm' means a firearm which after a round has been fired is designed to be reloaded from a magazine or cylinder by means of a manually-operated action;
- (f) 'single-shot firearm' means a firearm with no magazine which is loaded before each shot by the manual insertion of a round into the chamber or a loading recess at the breech of the barrel.

ANNEX II

(model for export authorisation forms)

(referred to in Article 4 of this Regulation)

When granting export authorisations, Member States will strive to ensure the visibility of the nature of the authorisation on the form issued.

This is an export authorisation valid in all Member States of the European Union until its expiry date.



Annex VII



Paris le 12 Mai 2011

Monsieur le Ministre,

Dans le cadre de la ratification par le Parlement Européen de l'article 10 du protocole des Nations Unies relatif aux contrôles des échanges internationaux d'armes à feu civiles ainsi que leurs munitions, je souhaite attirer votre attention sur un certain nombre de points qui vont avoir de lourdes conséquences sur l'activité de la chasse, du tir sportif, du commerce et de la fabrication des armes et munitions civiles.

Nos différents syndicats professionnels français et européen du marché civil de la chasse et du tir sportif se sont fortement impliqués sur cette question au travers d'une organisation européenne, l'ESSF. Par nos connaissances techniques, nous avons souhaité apporter une contribution utile à la proposition de Règlement de la Commission Européenne portant application de l'article 10 du protocole précité. Celui-ci concerne les procédures des autorisations et des modalités d'exportation, ainsi que les mesures concernant l'importation et le transit des armes à feu, de leurs pièces, éléments et munitions COM (2010)0273 – C7-0138/2010 – 2010/0147(COD).

Alors que la Commission INTA du Parlement Européen vient d'approuver son rapport sur le projet de la Commission, nous sommes très inquiets des conséquences de certaines des dispositions proposées.

En effet, dans le texte proposé par la Commission INTA deux points pourraient poser de graves problèmes à l'industrie et aux petites et moyennes entreprises européennes, et plus particulièrement à nos entreprises nationales de petite taille. Implantées uniquement en France, elles seront en concurrence directe avec de grands groupes internationaux, qui grâce à leurs filiales, pourront s'exonérer de ces très lourdes contraintes puisque de nombreux États n'ont pas ratifié ce Protocole de l'ONU.

Un premier point essentiel est la date d'entrée en vigueur prévue beaucoup trop rapprochée, au vu de l'ampleur des adaptations législatives et réglementaires à réaliser, et plus encore s'agissant de la France qui est en train de modifier sa réglementation nationale pour transposer exactement les quatre catégories Européennes actuelles. Un délai beaucoup plus long est indispensable à la fois pour ne pas perturber gravement notre secteur, mais aussi pour que l'administration soit en mesure d'effectuer cette transposition.

Le deuxième point crucial se situe dans l'Annexe au Règlement définissant les matériels concernés. Celle-ci inclut tous les types d'armes (y compris à air comprimé, d'alarme, de collection, etc. qui ne font pas partie des armes visées par la Directive Armes 91/477/CE), toutes les munitions et éléments de munitions et toutes les pièces et éléments des armes. Or, c'est contradictoire avec le texte même du projet de Règlement et les exceptions qui y figurent. Le rapport de la Commission LIBE du Parlement faisait bien référence à cette situation, mais le



rapport INTA n'a pas repris ce point²⁴. En outre, l'amendement 7 de la Commission INTA, rend sans effet l'exception prévue dans la version d'origine de l'article 3.1.g) et l'option de licence multiple devient de fait inopérante.

C'est une source d'inquiétude toute particulière, et ce alors même que ces questions sont sans aucun lien avec les objectifs recherchés par ce projet de Règlement concernant la répression du commerce illicite d'armes et munitions par le crime organisé.

Finalem^{ent}, nous voudrions insister sur l'importance de la solution prévue dans l'article 5.2 du projet initial de Règlement qui prévoit la possibilité de l'accord tacite des pays de transit. Ce système, qui est le seul pragmatique est aussi l'unique formule qui pourrait empêcher de provoquer de trop grandes difficultés aux entreprises européennes. Ce Protocole de l'ONU n'a été ratifié et signé que par trop peu d'États et ces extravagantes contraintes de transport vont retarder et enliser les exportations de nos entreprises, face à des concurrents qui seront loin d'avoir à les subir. Cette réglementation ne s'appliquera qu'aux échanges de matériels à usage civil, à l'exclusion du commerce des armes et munitions militaires. De telles contraintes sont totalement disproportionnées, et conduiront à l'élimination à terme de nos entreprises.

Lors des débats, plusieurs États Membres ont eu une position plus réservée, soit par frilosité, soit parce que leurs industries nationales sont moins concernées. Accepter leur postulat reviendrait à ne pas prendre en compte les incidences graves pour l'ensemble de l'Europe d'un texte qui mettrait ses entreprises en situations d'infériorité radicale face à leurs concurrentes étrangères. Aussi sommes nous malgré tout rassurés d'avoir pu constater que votre administration était particulièrement sensible à ce danger.

Nous comptons donc pleinement sur vous pour aider à faire prévaloir la voix de la raison.

Je vous prie de bien vouloir agréer, Monsieur le Ministre, l'expression de ma haute considération.

Yves Gollety

²⁴ En annexe figurent le texte des rapports INTA et LIBE et le document dit « Red Flag », qui font référence à ces deux questions très problématiques.



Annex VIII

RED FLAG DOCUMENT PREPARED BY AECAC FOR ESSF

X 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

Article 3, para 1

Text proposed by INTA

1. This Regulation shall not apply to:
- (g) shipments by air or sea and through airports or ports of third countries, provided that there is no transshipment or change of means of transport, **and only in the cases of transit referred to in Article 5 (1) (b)**

Alternative text suggested

1. This Regulation shall not apply to:
- (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;

Justification

By referring to article 5.1.b) (transit regime) the exception provided this article, gets inefficient.

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.

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.



- **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**

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

Justification

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.