



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

AECACS POSTULATES CONCERNING THE REGULATION OF "REPLICAS" INTO EUROPEAN LEGISLATION

Article 12 of the new Fire Arms EU Directive 2008/51/EC states that the Commission shall, by **28 July 2010**, submit a report to the European Parliament and the Council presenting the conclusions of a study on the issue of the placing on the market of **replica firearms**, in order to determine whether the inclusion of such products within the scope of such Directive is possible and desirable.

Our organisation represents thousands of small and medium enterprises in Europe. The current economic situation makes us take care of any issue in the field of the activity of our members. As civil fire gun retailers our members have a big interest in any regulation concerning replica guns. Antique guns collectors and other traditional activities represent an enormous market into the EU. Also nowadays many European companies producing or trading with replicas are entering successfully into the US market.

For this reasons we consider that any regulation concerning Replicas is highly important and shall be very carefully developed, as it might affect many SME or even provoke the facto barriers to European products.

Definition of Replica

According to the current EU legislation the Member States of the EU can determine their own definitions for the term 'replica', but however, in many cases the national laws do not provide such definition. Also, there is no official general definition of the EU for the term 'replica', but we can find some indications in the directive 91/477/EEC, annex I, part III (c) an exempt status is granted to "*antique weapons or reproductions of such*" and in UN protocol 55/255 , Article 3 (a) "*antique firearms and their replicas*" are mentioned as exempt from the definition of a firearm.

It is certain that 'reproduction' and 'replica' stand for the same object: A firearm of recent production that is based on an obsolete design or concept. The above mentioned abstracts shows very clearly that there is a strong connection between 'replicas' ('reproductions') and antique firearms, i.e. the definition of 'replica' is strongly linked to the definition of 'antique'.

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However, since there are different definitions of the term 'antique' in the different Member States, a definition of the term 'replica' can only be based on a general reference to the definition of 'antique' in the law of the Member States. Though, to find a general definition, there shall be made reference to the UN protocol 55/255 where the term 'antique' is linked to the "cut off" date of the 31.12.1899, which means, that anything that was produced after that date is no longer considered an 'antique'.

According to all that, we consider that the right definition of "replica" shall be the following:

A 'replica' is a firearm so considered according to the law of each Member State. If there exists no such definition in a Member State, a 'replica' shall be defined as a firearm that complies with the (technical or other) criteria that provides the law of a Member State to define an 'antique' (which doesn't mean that it has to be an exact copy of an antique but should have the same basic features), but was produced after 31.12.1899.

If this definition including the cut off date is chosen, the directive 2008/51/EC (which didn't introduce such date) would become completely compliant with the UN Protocol, which would benefit the free movement of goods throughout the EU. Another advantage is that no significant changes would have to be made in the law of the Member States and therefore collectors, sportshooters and re-enactors could continue their activities without having to follow unnecessary restrictions. This would improve the development and the regulation of today's replica production and protect the older replicas in collection.

A Replica is not an Imitation

The principle difference between a 'replica' and an 'imitation' is, that a 'replica' technically is a shooting firearm that looks or is technically like an antique, while an 'imitation' only looks like a firearm but does not shoot. So anything that can not expel a shot, bullet or projectile by the action of a combustible propellant is not a 'replica'. A 'replica' is a firearm while an 'imitation' is not.

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