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*Committee on International Trade*

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**2010/0147(COD)**

16.11.2010

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## **DRAFT REPORT**

on the proposal for a regulation of the European Parliament and of the Council implementing 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))

Committee on International Trade

Rapporteur: Salvatore Iacolino

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council implementing 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))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2010)0273),
  - having regard to Article 294(2) and Article 207(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0138/2010),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 55 of its Rules of Procedure,
  - having regard to the report of the Committee on International Trade and the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A7-0000/2010),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

#### **Proposal for a regulation**

#### **Article 2 – paragraph 2**

*Text proposed by the Commission*

2. ‘parts **and essential components**’ means any element or replacement element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound

*Amendment*

2. ‘parts’ means any element or replacement element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the

caused by firing a firearm.

sound caused by firing a firearm;

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

Or. it

#### *Justification*

*The definitions included in this Regulation should be brought into line with existing EU legislation, and in particular Directive 2008/51/EC, which has separate definitions for the terms "part" and "essential component".*

#### **Amendment 2**

##### **Proposal for a regulation**

##### **Article 2 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. ‘Essential component’ means the breach-closing mechanism, the chamber and the barrel of a firearm which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted;;***

Or. it

#### *Justification*

*The definitions included in this Regulation should be brought into line with existing EU legislation, and in particular Directive 2008/51/EC, which has separate definitions for the terms "part" and "essential component".*

#### **Amendment 3**

##### **Proposal for a regulation**

##### **Article 2 – paragraph 12**

*Text proposed by the Commission*

*Amendment*

12. ‘export authorisation’ means an

12. ‘export authorisation’ means an

authorisation granted to one specific exporter for one end user or consignee in a third country and covering one or more firearms, their parts and components and ammunition;

authorisation granted to one specific exporter for one end user or consignee in a third country and covering one or more firearms, their parts and *essential* components and ammunition;

Or. it

*Justification*

*This change is consistent with the proposed amendment to Article 2(2).*

**Amendment 4**

**Proposal for a regulation  
Article 2 – paragraph 13**

*Text proposed by the Commission*

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

*Amendment*

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

Or. it

*Justification*

*This change is consistent with the proposed amendment to Article 2(2).*

**Amendment 5**

**Proposal for a regulation  
Article 3 – paragraph 1 – point g**

*Text proposed by the Commission*

(g) shipments by sea and through ports of third countries, provided that there is no transshipment or change of means of transport.

*Amendment*

(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).*

*Justification*

*Air shipments which do not involve transshipment or change of means of transport should be exempted on the same basis as shipments by sea.*

**Amendment 6**

**Proposal for a regulation**

**Article 5 – paragraph 1**

*Text proposed by the Commission*

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

(a) the importing third country has issued the relevant import authorisation 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.

*Amendment*

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

(a) the importing third country has issued the relevant import authorisation 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.

*Justification*

*This change is consistent with the proposed amendment to Article 2(2).*

**Amendment 7**

**Proposal for a regulation**

**Article 5 – paragraph 4**

*Text proposed by the Commission*

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

*Amendment*

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



*Justification*

*The purpose of reducing the maximum time allowed for processing export authorization requests is to speed up administrative and bureaucratic procedures and enable exporters in the sector to plan their activities more effectively.*

**Amendment 8**

**Proposal for a regulation**  
**Article 5 – paragraph 5**

*Text proposed by the Commission*

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

*Amendment*

5. The period of validity of an export authorisation shall be decided by the Member States. ***The period of validity*** shall not be less than twelve months ***and, in the case of multiple shipments, shall not be less than eighteen months.***

*Justification*

*Lengthening the period of validity of export authorisations would help to reduce the administrative burden on Member States and on exporters which organise shipments on a regular basis and over extended periods of time.*

**Amendment 9**

**Proposal for a regulation**  
**Article 5 – paragraph 6**

*Text proposed by the Commission*

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

*Amendment*

6. Member States may ***encourage greater use of information and communications technology with a view to improving competitiveness and making the system more efficient. In particular, they may*** decide to make use of electronic documents for the purpose of processing requests for authorisation.

*Justification*

*Making greater use of information and communication technologies fits in with the Europe 2020 strategy for 'smart growth' based on innovation.*

**Amendment 10**

**Proposal for a regulation**

**Article 6 – paragraph 1 – point h**

*Text proposed by the Commission*

(h) a description and the quantity of the firearms, their parts and components and ammunition, including the marking applied to the firearms.

*Amendment*

(h) a description and the quantity of the firearms, their parts and ***essential*** components and ammunition, including the marking applied to the firearms.

Or. it

*Justification*

*This change is consistent with the proposed amendment to Article 2(2).*

**Amendment 11**

**Proposal for a regulation**

**Article 7 – paragraph 1**

*Text proposed by the Commission*

1. The simplified procedures set out in paragraphs 2, 3 and 4 shall apply for the temporary export of firearms for verifiable lawful purposes, ***which include hunting, sport shooting, evaluation, exhibitions and repair.***

*Amendment*

1. The simplified procedures set out in paragraphs 2, 3 and 4 shall apply for the temporary export of firearms for verifiable lawful purposes.

Or. it

*Justification*

*This paragraph is a general provision, whose content should be made more explicit in the following paragraphs.*

## Amendment 12

### Proposal for a regulation Article 7 – paragraph 2

*Text proposed by the Commission*

2. The transit measures as established by this Regulation will not apply to temporary exports.

*Amendment*

2. The transit measures as established by this Regulation will not apply to temporary exports ***for verifiable lawful purposes, including hunting, sport shooting, evaluation, exhibitions and repair.***

Or. it

*Justification*

*For the sake of clarity, the kind of temporary exports which are subject to simplified procedures should be specified.*

## Amendment 13

### Proposal for a regulation Article 7 – paragraph 3

*Text proposed by the Commission*

3. When leaving the customs territory of the Union through a point of crossing of the external border of the Member State of their residence, for the temporary export of one or more firearms during a journey to a third country, hunters and sport shooters ***may*** produce the European firearms pass pursuant to Articles 1 and 12 of Directive 91/477/EEC, a national firearms licence, a national hunting permit, or other valid national document issued by the competent authority of the Member State of their residence.

*Amendment*

3. When leaving the customs territory of the Union through a point of crossing of the external border of the Member State of their residence, for the temporary export of one or more firearms during a journey to a third country, hunters and sport shooters ***using the simplified procedure must*** produce the European firearms pass pursuant to Articles 1 and 12 of Directive 91/477/EEC ***or*** a national firearms licence, a national hunting permit, or other valid national document issued by the competent authority of the Member State of their residence.

Or. it

*Justification*

*The text has been reworded to make it clearer that hunters and sport shooters may use a simplified temporary export procedure. Evaluation, exhibitions and repair activities, however, still offer too much scope for potential abuse, including diversion to the illegal trade in firearms, which the UN Firearms Protocol is designed to eradicate .*

## **Amendment 14**

### **Proposal for a regulation Article 7 – paragraph 4**

#### *Text proposed by the Commission*

4. When leaving the customs territory of the Union through a point of crossing of the external border of a Member State other than that of their residence, for the temporary export of one or more firearms during a journey to a third country, hunters and sport shooters *may* produce a valid European firearms pass issued pursuant to Articles 1 and 12 of Directive 91/477/EEC by the competent authority of the Member State of their residence.

The competent authority of the Member State in which the point of crossing of the external border of the Union is situated shall notify the competent authority of the Member State of residence of the hunter or sport shooter that issued the European Firearms pass of the date of the temporary export, the quantity of firearms temporarily exported and the prospective date of return, as declared by the hunter or sport shooter at the time of the temporary export.

#### *Amendment*

4. When leaving the customs territory of the Union through a point of crossing of the external border of a Member State other than that of their residence, for the temporary export of one or more firearms during a journey to a third country, hunters and sport shooters ***using the simplified procedure must*** produce a valid European firearms pass issued pursuant to Articles 1 and 12 of Directive 91/477/EEC by the competent authority of the Member State of their residence.

The competent authority of the Member State in which the point of crossing of the external border of the Union is situated shall notify the competent authority of the Member State of residence of the hunter or sport shooter that issued the European Firearms pass of the date of the temporary export, the quantity of firearms temporarily exported and the prospective date of return, as declared by the hunter or sport shooter at the time of the temporary export.

Or. it

#### *Justification*

*The text has been reworded to make it clearer that hunters and sport shooters may use a simplified temporary export procedure. Evaluation, exhibitions and repair activities, however, still offer too much scope for potential abuse, including illegal trafficking in firearms, which the UN Firearms Protocol is designed to prevent.*

## Amendment 15

### Proposal for a regulation

#### Article 9 – paragraph 1 – point a

##### *Text proposed by the Commission*

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

##### *Amendment*

(a) refuse to grant an export or a multiple export authorisation if the natural or legal person applying for such authorisation has any previous criminal records concerning illicit trafficking in firearms, their parts and essential components or ammunition, or to ***the offences 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 States<sup>1</sup>***;

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<sup>1</sup> OJ L 190 of 18.7.2002, p. 1.

Or. it

##### *Justification*

*La definizione di "reato grave" può dare adito a interpretazioni discordanti tra Stati membri. Pertanto si ritiene utile il riferimento alla legislazione UE esistente, in particolare alla decisione quadro del Consiglio relativa al mandato d'arresto europeo e alle procedure di consegna tra Stati membri ((2002/584/GAI, poi modificata con decisione quadro del Consiglio 2009/299/JHA. All'art.2 par. 2 della sopracitata decisione quadro si elenca una serie di reati per i quali vengono comminate sanzioni che privano dalla libertà per almeno tre anni. La natura di questi reati suggerisce la negazione dell'autorizzazione di esportazione di armi da fuoco.*

## Amendment 16

### Proposal for a regulation

#### Article 20

##### *Text proposed by the Commission*

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

##### *Amendment*

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

*Article 10(2)* of this Regulation shall apply from the date from which the European Union becomes Party to the UN Firearms Protocol, following its conclusion pursuant to Article 218 of the Treaty.

*Article 11(1)* of this Regulation shall apply from the date from which the European Union becomes Party to the UN Firearms Protocol, following its conclusion pursuant to Article 218 of the Treaty.

Or. it

*Justification*

*The Commission document contains a mistake; it should refer to Article 11(1).*

## EXPLANATORY STATEMENT

The proposal for a regulation submitted by the Commission in May 2010 deals with the implementation of Article 10 of the United Nations Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition (hereinafter referred to as the ‘UN Firearms Protocol’ or ‘UNFP’).

The protocol was adopted in May 2001 as a protocol supplementing UN Convention against transnational organised crime. The protocol entered into force on 3 July 2005, after it had been ratified by 40 countries, and is the first binding instrument relating to small arms adopted at world level.

The Commission was authorised by the Council to negotiate and sign the UNFP in 2002 on behalf of the European Community. In its communication of 18 July 2005 the Commission signalled its intention to complete the ratification process by transposing the provisions of Article 10 UNFP on ‘general requirements for export, import and transit licensing or authorisation systems’.

To date, the UNFP has been ratified by 83 countries (including 13 EU Member States: Belgium, Bulgaria, Cyprus, Estonia, Italy, Latvia, Lithuania, the Netherlands, Poland, Slovakia, Slovenia and Spain) and signed by 52 signatories (including the European Community and nine EU Member States: Austria, Denmark, Finland, Germany, Greece, Luxembourg, Portugal, Sweden and the United Kingdom), while many countries have neither ratified nor signed yet (including five EU Member States; the Czech Republic, France, Hungary, Ireland and Malta).

The proposed regulation introduces an ‘export procedure’ to be applied by Member States to exports to third countries. The adoption of the regulation under the usual legislative procedure would enable Article 10 of the UNFP to be applied in all the Member States, which would finally establish a uniform system for trade in firearms, their parts and components and ammunition within the European Union.

In addition to the general aim of harmonising and simplifying the procedures followed, the regulation is also intended to help combat illegal trafficking in firearms by encouraging and strengthening cooperation between states, an objective which has assumed increasing importance since the entry into force of the Lisbon Treaty on 1 December 2009.

The proposed regulation covers the trade in and transfer of non-automatic firearms and their parts and ammunition for civil (non-military) use to third countries, including countries which are not contracting parties to the UNFP. The items covered by the provisions of the regulation are listed at annex 1.

The proposed regulation provides for an authorisation system for exports, imports and transfers to third countries of the items concerned. Export authorisation should be granted only after import authorisation has been obtained from the third country and a notice of no-objection to transit has been issued by the country of transit. The regulation introduces a novel procedure – based on the principle of tacit consent – to be used in the event of the transit

country failing to register objections within a specified period.

Simplified procedures will be introduced for some types of export and some categories of users, such as hunters and sport shooters; Member States will be required to give the competent authorities appropriate powers and lay down rules on the penalties applicable to infringements of the provisions of the regulation. The regulation also requires the setting up of a firearms exports coordination group.

The legal basis for the proposed regulation is Article 207 of the Treaty on the functioning of the European Union, which deals with common commercial policy, an exclusive competence of the Union under Article 3 TFEU.

Your rapporteur took account of considerations relating to the viability of the industry as well as public safety issues when examining the proposal. On the one hand, of course, the social and economic implications of applying the provisions of the regulation are far from negligible. The arms industry in Europe accounts for some EUR 694 million of exports and EUR 20 million of imports, and makes a significant contribution to GDP and employment. On the other hand, the Stockholm Programme regards arms trafficking as a threat to the European Union's internal security.

An assessment of the impact of implementing the regulation published by the Commission indicates increased costs for businesses and public authorities of the order of EUR 1.3 to 1.6 per year, which would bring the total cost of licensing firearms for civil purposes to between EUR 3.8 and 4.6 million.

Your rapporteur believes, therefore, that he should focus primarily on the speed and efficiency of the procedures applied to the trade in firearms.

It should also be stressed that delays and inefficiency on the part of individual national administrative authorities should not stand in the way of trade, but should instead be progressively eliminated by the judicious exchange of best practice between the Member States competent authorities.

In general, however, the Commission's proposal appears to be balanced and, with certain modifications, should be approved.

In particular, your rapporteur considered carefully how to reword some of the definitions contained in Chapter 1 (Subject, definitions and scope) so as to make them clearer and more apposite and technically correct. Your rapporteur decided to further clarify the difference between part and component by bringing the wording into line with current EU legislation, and in particular Directive 2008/51/EC of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons.

Further, with reference to the exemptions listed in Article 3, your rapporteur considers that air shipments via airports of third countries should also be exempted, provided there is no transshipment or change of means of transport, on the same basis as shipments by sea.



With reference to the general provisions concerning the procedures proposed by the Commission (export authorisation, procedures and controls, Articles 4-14) your rapporteur felt that the time allowed for Member States to consider requests for exports should be reduced (from 90 to 60 working days) while the duration of the validity of multiple export authorisations should be increased (from 12 to 18 months), in order to speed up the procedures and make them less onerous for exporters.

Your rapporteur has tried to make the section of the regulation dealing with simplified temporary export procedures more comprehensible. Normal transit procedures do not apply in the case of weapons exported for hunting, sport shooting, evaluation, exhibition and repair. Hunters and sports shooters are able to make use of even more streamlined procedures when exporting firearms temporarily in connection with their recreational pursuits. But activities involving the evaluation, exhibition and repair of weapons still offer too much scope for potential abuse, and hence for illegal trafficking in firearms, which the UNFP is designed to help eradicate.

To improve legal certainty, your rapporteur suggests that the concept of serious crime contained in Article 9 should be expanded by explicitly referring to the list of offences contained in the Council Framework Decision on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA, as amended by Council Framework Decision 2009/299/JHA). The nature of the offences in question, and the gravity of the custodial sentences they normally incur, leaves no doubt about the unsuitability of anyone committing them being involved in the export of firearms and the advisability of their being automatically precluded from engaging in any such activities.

Your rapporteur stresses how important it is for Article 10 of the UNFP to be implemented in all the Member States with a view to harmonising procedures and finally creating a common system to regulate the trade in firearms.